

***United States Court of Appeals
for the Second Circuit***



APPENDIX

ORIGINAL

74-2542

United States Court of Appeals
For the Second Circuit

CHRIS-CRAFT INDUSTRIES, INC.,

*Plaintiff-Appellant-
Cross-Appellee,*

against

PIPER AIRCRAFT CORPORATION, HOWARD PIPER, THOMAS F.
PIPER, WILLIAM T. PIPER, JR., BANGOR PUNTA CORPORATION,
NICOLAS M. SALGO, DAVID W. WALLACE and THE FIRST BOSTON
CORPORATION,

*Defendants-Appellees-
Cross-Appellants.*

**APPENDIX ON APPEAL FROM FINAL JUDGMENT
OF UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK**

VOLUME X — Pages 3215A to 3434A

Counsel of Record Are Listed on Inside of Front Cover

PAGINATION AS IN ORIGINAL COPY

**NOTE REGARDING THE ORGANIZATION OF
THIS APPENDIX ON APPEAL**

In accordance with a stipulation entered into between the parties, this Appendix on Appeal is a continuation of the one submitted to the Court on the prior appeal, Docket No. 72-1064. That Appendix consists of six volumes, totaling 2,319 pages. Therefore, this Appendix begins with volume seven (VII) and page 2320A.

Copies of the prior volumes of the Appendix will be made available to the Court in connection with this appeal.

Also, for convenience, the table of contents to the prior volumes of the Appendix is reprinted herein.

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DOUGLAS

L.

BELLEMORE,

resumed.

CROSS EXAMINATION [Bellemore's Direct Examination Reproduced
Beginning at 3381A]

BY MR. RYAN:

Q Dr. Bellemore, prior to the study you made of
Piper Aircraft Company had you ever studied any other
general aviation company?

A Yes.

Q As I indicated, I am a practicing financial
analyst and I have been a director of research for a member
firm and I make many evaluations during the year, such
as Lockheed as well as general aviation.

Q I address your attention specifically to general
aviation companies rather than the Lockheeds and the
Boeings.

A This particular industry?

Q Yes.

A No, sir.

Q You testified, Doctor, that this particular
industry, the general aviation industry, experienced
cyclical earnings.

A Yes, sir.

Q What did you mean by that?

A Do you want me to use the chart?

In the years in which we had either a business recession, as defined by the President's Council of Economic Advisers, or even in amore minor type of downturn in corporate profits, such as 1967, as the charts showed, there was a sharp decline in both units and billings and in the case of Piper their earnings declined much more than the industry.

For example, I can check the figures, but I believe in that 1967 minor recession they came down from \$4.23 to \$1.83, which I could call a drastic decline in what the economists didn't even call a cycle.

In other words, it was a mini-recession of some sort.

Q After the earnings of Piper came down to \$1.30-some-odd cents --

A I can check that.

Q Would you please let me ask the questions, Doctor?

A Yes, sir.

Q When the earnings came down to \$1.80-some-odd cents, what happened then?

A Their profit margins had shrunk about in half and they stayed down to about half of what they were. Both the percentage of net profit after taxes and the

percentage of sales remained about half of what they have --

Q Did the earnings go back up --

A Could I finish?

In this period their sales did go up from, approximately -- I can check the figures -- is it all right to be approximate? -- from approximately 80 million to approximately 107 million, and even though their profit margins had shrunk to half of what they were, because of an increase in volume, they did manage to have, in 1968, their earnings come back to the 1960 level, approximately within a couple of cents, and in the year 1969 they managed, because of this increase in volume, \$2.92, but I read in the Treasurer's report of the company in the directors' meetings that they had many problems and they didn't even think they could do financing because of the record --

Q We will get to that area, Doctor.

I asked you what happened to the earnings. The earnings in 1969 went back up to \$2.92?

A '69 per cent of what they were in 1966.

Q Did they go to \$2.92?

A Yes.

Q So the earnings in a cyclical company go up and

they go down?

3218 A

A What Cessna's went --

MR. RYAN: Your Honor, I asked him whether the Piper earnings went down.

THE COURT: Mr. Ryan, it is non-jury.

MR. RYAN: I had hoped we would finish this afternoon --

THE COURT: I hope so, too.

You see, what I am saying to counsel is this:

If you are good enough to answer the questions that he poses to you then we will get through with his line of inquiry.

If you insist on amplifying your opinions by information not called for then that takes a lot of time and will cause some discomfort because the lawyer would feel that you are taking up his time unnecessarily.

THE WITNESS: I tried to, sir, but I thought he asked me about in a cyclical company --

THE COURT: I am sure you thought you were answering the question, but he wants you to be responsive and precise.

THE WITNESS: Yes, your Honor.

BY MR. RYAN:

Q Now, Mr. Bellemore, you have a copy of your

3219 A

report in front of you?

A The tables and charts, yes, sir.

Q How much time did you spend in preparing that report?

A I really have no idea in toto. It was a good many hours, though.

Q Can you give me an approximation?

A No, sir, I couldn't. I have been working on other cases and doing investment work --

THE COURT: Did somebody work up this data for you?

THE WITNESS: No, sir. I did. My girl keeps a record, but I don't.

Q You personally did all of the charts and exhibits which appear in your report?

A Yes, sir, except for, obviously, the typing.

Q The typing?

A Yes.

Q So that there is no one else responsible for the information which appears in these reports other than yourself?

A No, sir.

Q Did you ask anybody at Chris-Craft to check your schedules to see whether they were accurate or not?

2 A No, sir.

3 Q Did you ask anyone to check your schedules to
4 see whether the information contained thereon was accurate
5 or not?

6 A No, no, sir.

7 Q I believe you testified on your direct examina-
8 tion that you were asked to give the value of Piper
9 shares, or shares of Piper owned by Chris-Craft in August
10 of 1969?

11 A I believe that was not my testimony. I believe
12 I testified as of the date that Bangor Punta obtained
13 control, which was September, and I indicated that the
14 value in August-September was the same, in my judgment.

15 Q And what date in September are you referring to,
16 the date when Bangor Punta got 50.1 per cent?

17 A Yes, sir.

18 Q And that was when?

19 A I don't know the exact date.

20 Q Would you please tell us what information was
21 given to you by the attorneys for Chris-Craft, or Chris-
22 Craft, which you used in formulating your opinions that
23 you expressed in this report?

24 A I would have to give it from memory and, therefore,
25 it might not be 100 per cent complete. I don't have a

list but I believe --

Q Did you take notes at the time?

A Of what they gave me?

Q Yes.

A Actually, again, my girl keeps a list of everything that comes in and out, but I don't have it with me. I have a reasonably good idea, I think.

Q Did you prepare any memoranda incorporating this information that was given to you?

A I am sorry. I don't understand.

Q Well, first relate your information as to what you received from Chris-Craft or Chris-Craft's attorneys when they asked you to formulate your opinion.

A Well, essentially I believe I testified that the information essentially was from these tables and charts, which were largely from information supplied by the General Aviation Manufacturers Association.

In addition to that, I had the regular Standard & Poor's stock list reports --

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3222 A

THE COURT: Dr. Bellemore, Mr. Ryan asked you to say from Chris-Craft what you received.

A I received the Xerox copies of the annual report of the Piper. I received meetings of the board of directors of Piper, a certain number of them. I received a safety report and the safety of the Twin Comanche --

Q Who prepared that report?

A I believe it was Stieglitz.

I also received a report of the Piper story, by Mr. Piper, Jr., in which he reviewed the history of the company. I received price lists of Bangor Punta and Chris-Craft and Piper stock from, I believe, January 1 of 1969 through the year. I received some newspaper clippings or magazine clippings, one I remember, I think, from Forbes Magazine. I think essentially that was the materials certainly that I reviewed. Of course I can't be certain, I don't have the list, but my memory would be that that would be it.

Q Were you given copies of any of the agreed findings and disputed findings which were supplied to the Court?

A I am sorry, I should have remembered that. I was, yes.

Q Were you given anything additional that you recall?

A I am sorry, I don't. I should have remembered that, because I went over those. I am sorry, I don't remember.

Q Was any of the information you used in formulating an opinion furnished to you orally, oral statements by anyone?

A I don't believe so.

Q In other words, you didn't rely upon any oral statements given to you by Chris-Craft or Chris-Craft's attorneys in formulating your opinion?

A I did rely on what I stated, I believe, in the beginning of my testimony on, one, the assumption that with over 50 per cent of the stock a merger could be forced and, two, that the Pocono was aborted, three, that the Twin Comanche had to have -- I did read the history of the Twin Comanche from 1963 on, and that either '69 or '70 -- I believe '69 they had to have a safety placard on it, I believe, to meet FAA requirements.

Q And you said you read from '63 on concerning the Comanche?

A That's right. I guess that probably was

3224 A

in the Stieglitz report, I guess.

Q In other words, your information concerning the Twin Comanche from any other documents other than the Stieglitz report?

A Well, I did testify I had read the annual reports in which they indicated the importance of the Twin Comanche both prior to its coming out in '63 -- I read some discussion in the directors meetings of the problems of modifying the Twin Comanche and how expensive it might be. I think that's it.

Q And that is, to the best of your recollection, all of the information you had concerning Piper upon which you formulated your opinion?

A No, sir, I didn't testify to that. You asked me what information I had --

Q From Chris-Craft.

A To the best of my knowledge, I believe -- I strongly believe that that is it. I can't remember anything else.

Q Did I understand you correctly, Doctor, that you attempted to -- your opinion is based upon what was available to an investor or an analyst in August 1969? You limited your investigation to that information

3225 A

available at that period of time?

A I believe the information that I just discussed might not have been available. The Stieglitz report would not have been, the information, I guess, about the Pocono would not have been available and certainly, in addition, I did see the figures through 1970 and, as a matter of fact, I believe I testified this morning I have figures for the industry and for Piper through February of this year by plane, so I did have that information.

Q When did you reach your conclusion on your valuation of the Piper securities?

A I would say approximately a month ago.

Q So that would be sometime in January or February of 1971?

A Yes, sir.

Q Did you attempt to update with Chris-Craft any of the information they had given to you previously?

A Did I ask them for additional information?

Q Yes.

A No, sir.

Q Did you make any attempt to verify what has occurred between 1969 and 1971 concerning Piper Aircraft

Company?

A I read in the first place, overwhelmingly, the information I get every month on every type of plane and all of their billings, and that is the most important information, and that is what I had updated.

Q Did you make any attempt to ascertain what the current situation was on the Twin Comanche?

A No, sir. I was valuing the stock as an analyst would look at it at that date. I did ^{know} ~~as~~ certain information but I didn't attempt to go out and get more than the type of information that I had. As I understand it -- I looked at the figures and they have not been for a number of months selling any Twin Comanches.

Q When you say date, what date are you talking about?

A The last figures I got were February 10 -- I am sorry, were March 10 or 12 of this year. For at least four or five months they had not delivered any.

Q In other words, your opinion, then, is that in March, based upon information you had available in January, February and March of 1971 you have concluded that in August 1969 Piper Aircraft had a value of \$7.50 per share, is that correct?

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2
3 A No. I said I am aware, as frequently happens
4 in these cases of information that happened, but to be
5 specific, my estimate was based on earnings for 1970 of
6 65 cents a share. If I had used the information of a
7 deficit of 47 cents a share, I would have put a lower --
8 very definitely a lower price on it. I tried to take
9 the figures then available.

10 Q By then available you are referring to Augsu
11 August of 1969?

12 A September.

13 Q September of 1969?

14 A Yes.

15 Q And that is where you started from?

16 A That is where I finished.

17 Q Did anybody instruct you to use that
18 technique or was that your own decision?

19 A That was my own decision. That is the way I
20 have always done it. I have testified, I suppose,
21 in 25 or 30 such cases and I have always been told
22 that the actual date of valuation is important. In the
23 Texas Gulf case we had to value it three years before --

24 Q Please. So it was you decision?

25 A Yes, sir.

Q Do you think your opinion could have been more accurate if you based it on facts, all the facts which were available to you here in March 1971?

A I believe I just stated -- I don't know what you mean by accurate. Obviously knowing the fact that they operated at a loss and that their sales declined about 58 per cent while the industry, including Piper, went down about 38, that would have been strongly negative, but I tried to avoid that bias.

THE COURT: I think I saw somewhere here some projections for the next four or five years.

THE WITNESS: Oh, yes, sir.

THE COURT: What did you base those projections on, your 1969 information?

THE WITNESS: Sir, I made first a study of the industry and I projected the industry growth rate and also the cyclical factors in the industry. I did this also with that in mind and the situation of Piper in the industry as of August 1969 and the problems they had moving into the growth area of the industry and on that basis and projecting a 55 cent earnings, I then projected a growth rate from that base, one growth rate for sales at 7-1/2 per cent and three different growth

rates for earnings.

THE COURT: Did you test your projections for the last two years by the actual facts?

THE WITNESS: No. I know what the facts are. I know they lost 47 cents where I estimated they would earn 65. I didn't think they would do that poorly. Their sales in units dropped much more than the industry did and I had not estimated they would go down really that much.

THE COURT: On table 10B you show estimated sales, estimated earnings and the growth rate for the years from 1970 to '78 and as I understand what you are telling me, you are telling me you based everything on that chart on what you knew as of September of 1969. Is that right?

THE WITNESS: Yes, sir. This is the way I always value a stock.

THE COURT: Go ahead, Mr. Ryan.

Q Dr. Bellemore, you also testified on your direct examination, I believe, that, as you characterized them, the Big Three, Cessna, Beech and Piper, were losing their share of the general aviation market. Do you recall that testimony?

A Oh, yes. They were down from having had 88 per cent --

Q Yes or no?

A Yes.

Q Do you recall testifying that in 1966 you stated that the Big Three had 92 per cent of the general aviation market and in 1970 they were down to 85 per cent of the general aviation market?

A Now I would have to refer to my tables.

Q Do you have your tables?

A Yes.

Q Any time you want to refer to your tables, you go right ahead. I believe it is A1.

A What if anything did you refer to?

Q My notes say that you mentioned that in 1966 the Big Three had 92 per cent of the general aviation market and in 1970, 83 per cent of the general aviation market?

A That is not on table A1.

3231A

Q Well, do you recall?

A Well, I will have to -- no, I don't recall all these percentages.

Q All right, let us proceed on.

A I have percentages here if you want --

Q That's all right. We will go on.

Dr. Bellemore, in your investigation of the general aviation market from 1960 or '59, when you concentrated your attention to 1970, did you detect any change in the make-up of the general aviation market?

A Oh, very, very decidedly, as the table in which I showed segmentation, I indicated that the percentage in the twin engine and major planes had gone up substantially even from '66, to say nothing from earlier.

Q The jets --

A No --

Q The jets came into the picture?

A No, sir. Actually in this price class I am not talking about jets.

Q Didn't you include in your general aviation market the jets?

A I included at the very bottom there are some planes in the 400 -- up to the 480,000 class, but, yes, there were some jets in there.

3232 A

Q And do you think perhaps a contributing factor in the Big Three losing part of the general aviation market was the fact that jets were becoming a factor?

A Yes. Mr. Piper said it in an annual report.

Q Did you in the course of your investigation make any study to ascertain whether Piper Aircraft, in the markets in which it traditionally sold its planes -- whether Piper Aircraft was losing any ground?

A Yes, they were losing to Cessna, and I believe I testified earlier, for the past three years Cessna was the leader in the traditional ground.

Of course, this is the trouble: They stayed in the traditional ground. But they lost the leadership to Cessna, and they were gradually losing their percentage in the -- in the Big Three, and, of course, drastically.

Q Percentage of what? Percentage of units or percentage of dollar sales?

A Well, the dollar sales are the important figure.

Q Well, I think you better state, when you say "losing their position," whether you are talking about units or whether you are talking about dollar sales.

There is a difference, isn't there, Doctor?

A A big difference. The important thing is sales.

Q Well, maybe the important thing to you is sales, but there may be other factors.

A In my judgment, by far the important thing. It doesn't matter how many units you produce, if you can't make money, and particularly they are in a class, a price class where the price competition was the keenest, and I think that's the big reason that their profits went down.

I can point out in the annual --

Q Please, Doctor. There is no question pending.

Your testimony how is, Doctor, that you figure dollar sales are the most important thing, not units, is that correct?

A That's correct.

Q And you will note on chart A-2, I believe, you have industry units, 1968-'66, and then '69-'67 not listed there, '69 and '70, the units are going down, is that correct?

A Yes. In all the --

Q Is that a bad sign?

A That the units --

Q Yes.

A -- are going down?

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pj-4

Bellemore-cross

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3234 A

Q Yes.

A Well, it has some negative effects. Obviously if they could sell just as many of the most expensive units as they could the other, but --

Q What was happening to dollar sales during those years for the Big Three?

A Oh, the Big Three went up substantially while the units were going down, and like -- yes, sir.

Q Now you also made a point on A-4 --- again I am not sure I understood when you were testifying but that in 1966, in the light twin-engine market, Piper I believe had 72 per cent -- that is 1966 -- and in 1969 it decreased to 51 per cent?

A No. That is not correct.

Do you have the table in front of you?

Q Yes. I have the table.

A Well, on May 4th what I stated was --- this is not broken down by Piper. This is an industry table. I said, for the entire industry here, you had in '66 of the single engines, you had 46 per cent of the dollar billing and it was reduced to 34 per cent.

The 72 per cent that you just referred to is the 46 per cent for single engines and the 26 per cent for light twins, making a total of 72.

pj-5

Bellemore-cross

3235 A

This again is the industry. And that had declined, the 26 per cent to 17 and the 26 to 51, with the result that you now had in '69.

100,000 to 400,000 class, where Piper doesn't sell, you had about 50 per cent of the industry billing.

Q And when you are talking about comparing these industry billings against the light twins, what you are comparing is the industry, which includes the jets, and all your high-priced items as against the lower-priced light twin engines, is that correct?

A I am comparing the whole --

Q Is that correct?

A Yes, sir, but --

Q All right. That's all I asked you.

Turn to chart or table, I guess it is, P-1.

A Yes, sir.

Q And you have a notation down here:

"Cherokee Twin did not work out."

Who told you that?

A I am not sure. I am not sure. Somebody -- maybe it was counsel -- or I am not -- I can't remember who.

Q Well, did this fact enter into your judgment at all?

A No. Not really because --

3236 A

Q What is it there for?

A I just wanted to make a note of it when I was making the comparison.

Q Have you bothered to check with any of Chris-Craft's representatives as to what the status of the Cherokee Twin is today?

A No, because I have the figures in front of me on the units. I wouldn't have to check. I can look at the figures.

Q Well, you say the Twin did not work out. Suppose I told you that the twin was now in production and being sold?

A As of --

Q How would that affect your opinion?

A As of 1969?

Q No. Now. Today.

A Well, I didn't base any opinion on now.

Q Let us go back a bit again. I just wanted to get one explanation from you.

I will go back to table 1-A and you have on there at the bottom line, before the footnote, "Piper, narrowest product line, totally dependent on civilian aircraft."

3237 A

A That's correct.

Q When you say "narrowest product line," what do you mean by that?

A In the general aviation industry, just taking the Big Three alone, it concentrated, as my segmentation charts show --

If I may refer to it, I can indicate what I meant.

Q Well, let me ask you another question:

Do you mean by "narrowest product line" that it had the fewest number of models?

A I can only illustrate if I have the table in front of me. It is the only way that I can answer your question.

It is table P-2.

Q P-2?

A Yes, sir. And also P-2-8.

Q P-2-8?

A Yes, sir.

Q Where is that located, now?

A I am sorry. P-2 and P-2-B.

Q Let me just make sure that we are in the same
pew.

This is what?

3238 A

A This is P-2 and this is P-2-B.

I don't really need this.

Q Where is this in your report?

A Now --

Q I don't seem to have the P-2.

A I will discard that. I will just use the P-2.

Q I have P-2-B now.

A Okay. All right.

What I did there, because I had read through all the annual reports, that Piper said the big field was moving up actually into business craft and into jets. That's what the Piper annual report said, that they had to move up into the higher-priced planes.

So I looked here, taking the Big Three, and showed what segmentation was, and as far as I was concerned, looking at their coverage there, they had -- the planes -- they had excellent coverage in that up to 30,000 bracket, although they had lost leadership for four years, but they had certainly plenty of coverage in there.

They had nothing in the 30,000 to 40,000 bracket.

And then in the twin-engine field, compared to

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pj-9

Bellemore-cross 3239 A 1213

the others, they had really four planes, the Twin Comanche, the Aztec, the Navajo, and the proposed Pocono.

Of the four, the Pocono was aborted, and I understood they had problems with the Twin Comanche.

So that was what I was saying, in effect, they had.

Now they had nothing over \$100,000. They had nothing --

Q And as I understand your P-2, you are saying that the Twin Comanche and the turbo-Twin Comanche and the Aztec and turbo-Aztec, they were competitive against the Bonanza F-32 and the Bonanza F-33-C? Those six Bonanza planes? Is that your testimony?

A They were competitive in price with those planes. They had in a couple of them -- they had a few more passenger capacity, I believe -- I am sorry.

Q Is this one of the wchedules that you prepared?

A Yes, sir.

Q Who told -- Yes?

A Could you repeat the question?

Q Who told you that a Bonanza was a twin-engine plane?

A Well, I have - - could I check on my --

1 pj-10

Bellemore-cross

3240 A 1214

2 Q Yes, I would appreciate it if you would.

3 Perhaps I can save you some time, Doctor.

4 A No. The table 2-B is the correct table on
5 that, not the 2-C. The table 2-B is the correct one on
6 that. The table 3-B shows correctly that the twin
7 engines for Beech began with the Bonanza F-33. That is
8 the correct table, the 2-B.

9 Q Beginning with what?

10 A Well, Bonanza -- I have the actual statistical
11 report here of the Association and --

12 Q Is it your testimony that a Bonanza F-33 is a
13 twin-engine plane?

14 A I will have to check --

15 Q Suppose I told you, Doctor, that all of those
16 Bonanzas are single-engine planes.

17 Would that alter your opinion then in any way?

18 A Yes. I believe I just testified now that the
19 2-B is the correct one. In that respect, the table P-2
20 is in error, that the twin-engine Beech began with the --
21 as shown on 2-B, that that is the correct --

22 Q The Baron series?

23 A That's correct.

24 THE COURT: In simple terms, the schedule that
25 you prepared is based on an oversight?

THE WITNESS: I have two here, sir. This is correct. There was an error in the other one. There are two similar tables. This is correct.

THE COURT: Which is in evidence?

THE WITNESS: Both.

THE COURT: Both in evidence. One is correct and one is wrong?

All right.

THE WITNESS: This is also in evidence, which is the source from which it came.

BY MR. RYAN:

Q Now, Doctor, you were on that same P-2. You have a notation, "PA-35 Pecono, project dropped after \$2 million plant and other millions spent."

Who told you that?

A I read that, I believe, in the directors' meetings. I may have also had information from counsel on that. But I did read considerably about that in the treasurer's report. I remember in the directors' meetings that these figures came up.

Q In the treasurer's report it says millions were spent?

A In the board of directors meetings, to my remembrance, that I saw both the plant and that it

would cost several million. I believe I saw a figure up to five million, and then I saw that it was aborted. That was the basis for that statement.

Q And this fact, did it have any effect on your evaluation?

A Well, it convinced me of what I had been convinced me right along that the management of Piper was -- had a serious problem, as pointed out by the treasurer's report and Arthur Anderson's report.

Q How did you know that the Piper management had a serious problem?

A Well, all I had to do was to look at the figures their failure -- number 1 --

Q In other words, you made no personal investigation; you just looked at the document you referred to earlier, is that correct?

A Would you want me to tell you --

Q Was there anything else besides the document you had before you upon which you base your opinion that the Piper management was inadequate?

A Did I speak to Piper management? Is this your question?

MR. RYAN: Read the question.

(Question read.)

1
2 A . Again I am scrry if I don't thoroughly under-
3 stand you.

4 Are you saying only the information I had
5 and nothing -- I didn't speak to Piper management? Is
6 that --

7 Q I am asking you what other information you had
8 before you upon which you based your opinion that the
9 Piper management was inadequate other than what you testi-
10 fied to here today.

11 Now is that clear?

12 A Yes, sir. I read another report besides --
13 but basically it was the information about which I have
14 testified.
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2 THE COURT: You know --

3 THE WITNESS: In other words, may I --

4 THE COURT: These things may be perfectly clear
5 to you, but you are leading me through a semantic maze,
6 a thicket.

7 THE WITNESS: Could I explain?

8 THE COURT: Your explanations don't clarify.

9 THE WITNESS: Could I explain that? I think I
10 could, very briefly.

11 THE COURT: It would be much easier for me if your
12 explanations would go directly to the questions, because
13 I find myself listening to the question, waiting for an
14 answer and then being taken on a meander.

15 Now, I know that you've got something to tell me,
16 and I am trying to hear it, but I can't get it if you
17 persist in this business of responding not responsively.

18 THE WITNESS: Well, I'm sorry. I really didn't
19 understand the question.

20 THE COURT: It is a difficult enough field, and
21 you have spent a lot of time on it. Now, please try and
22 follow the lawyer and answer his questions.

23 THE WITNESS: Yes, your Honor.

24 Q Now, I note on Exhibit P-2 that none of the
25 Big Three have at the present time, at least to 1969,

had a jet.

A A pure jet.

Q A pure jet.

A That's correct.

Q And have you made any investigation into the profitability of companies that have been manufacturing jets during the period 1960 through 1969, specifically the executive jet class?

A No, sir.

Q You made no study of it?

A No, sir.

Q You don't know whether that business is profitable or not?

A Not specifically, but by the entrance of the firms in it and the indications both in the Piper report and in the Cessna and Beech reports that they were moving in this direction, would lead me to believe that they thought so.

Q But you didn't formulate any opinion?

A No, sir, except --

Q Did you read the Wall Street Journal on Monday?

A Yes, sir.

Q Did you read the article about the executive jet business?

A Yes; and I disagreed with it strongly, and I think

investors do.

Q Did you ever examine into North American Aviation's activities in the business jet field?

A North American-Rockwell?

Q Yes.

A Not -- no, sir. Not in detail, no.

Q Did you ever learn of the history of Gates' Lear Jet?

A I'm familiar with all those companies, as an analyst. I never made a detailed analysis.

Q Don't you know that Gates' Lear Jet has been sold twice now in the past ten years? Do you know the reason why it was sold?

A No, sir. Poor management, I assume.

Q Now, just to clarify a point, Doctor, on Table P-3, you have a category called "turbo-jet." Do you see that category, P-3?

A Yes.

Q Now, what do you define a turbo-jet to be?

A A turbo-prop.

Q It is a prop plane?

A Yes.

Q Are you familiar with the Navajo?

A Somewhat; yes, sir.

Q In your investigation back into 1969, wasn't there talk at that time that Piper was going to prepare and to sell and market a turbo-charged Navajo?

MR. LIMAN: Objection to the form, "talk."

THE COURT: Yes.

Q Did you read anything in the papers --

MR. RYAN: I will withdraw the question.

Q Did you read anything in the documents that you had before you concerning Piper's plans to turbo-charge the Navajo?

A To turbo-charge it?

Q Yes.

A That's not the same as a turbo-prop.

Q Put a turbo-prop on the Navajo?

A Now, you do mean turbo-prop?

Q Yes.

A Yes. I was very much interested, and I read in the discussion that it would be too expensive, and they are consistently interested in producing a plane at the least cost, and so, as I remember, it said, "We better stick to the piston-engine plane, because it won't stay within our price factor."

In my judgment, they always overemphasized this price factor. So I did read that.

Q That is your opinion, that they overemphasized the

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price factor?

A That's my judgment. I think --

Q You have never been in the aircraft business, have you?

A I have seen their profit margins from 1966 go down when their sales went up, and that is, I think, a basis for my judgment. If your sales keep going down and your profit margins go down, I would consider one of the factors was overemphasis on the price.

Q Could another factor be that the profit margin might be affected by the amount of developmental work going on?

A Yes, which weren't very satisfactory here, if you notice.

Q How do you know?

A The Pocono was aborted, and they said that was their major project in '66, '68, '69.

Q Is that your information?

A The major project, not the sole one. they said.

Q Now, let's turn to your Table 10-A, Doctor, and I wish you would explain this for me. Now, Table 10-A has a heading, "Major Factors." What do you mean by major factors in 10-A?

MR. LIMAN: 10-A is not offered --

THE WITNESS: I didn't have any 10-A.

MR. LIMAN: You can use this. You will have to show it to him.

A I finally found one. I didn't think it was -- I didn't testify to it, and I hadn't intended to, but I now have it in front of me.

Q You now have it before you?

A Yes; I have.

Q Did you prepare that table?

A Yes.

Q And what part does that table have in the formulation of your opinion?

A Well, my judgment was -- may I go down through it then and say specifically why? I can't generalize.

Q First tell me what the purpose is. You say "Major factors." What do you mean by that?

A That in the valuation of the stock, the two major factors, as I believe you testified there, were two assumptions, one, that Chris-Craft, once it was a minority stockholder, could be forced into a merger at the time that Bangor Punta would make a choice. The second assumption I was told was that the Pocono was aborted. So --

Do you want me now to go down --

Q So these were factors which went into your

determination of the value?

A Those -- that's the first part; yes, sir.

Q They were considerations?

A Important ones, yes.

Q All right. Let us just go down, No. 1 here, point by point.

It says here, No. 1, that Chris-Craft locked into a minority position (a) either wait for merger and accept merger offer or appraisal.

A Correct.

Q Now, was that the only option open to Chris-Craft?

A I was told by counsel that it was.

Q You mean, told to assume?

A No. I'm sorry. I show right below it that of course they could, prior to any merger, offer this stock for sale.

Q In other words, have a public offering of their securities?

A That's right.

Q Or a private offering of their securities?

A That's correct.

Q And then, the next item I have, if Chris-Craft offered stock ^{if} on or ^{if} Bangor Punta merger-appraisal, both companies August 19⁶⁹ know and would need to disclose potential buyers.

What do you mean by that?

A Well, I believe I was referring to the type of thing as the Bangor Punta prospectus, that they didn't disclose the railroad, that they owned --

MR. RYAN: I move to strike that.

THE COURT: Strike it out.

THE WITNESS: You asked me to explain what I meant. Under the Securities Act, when you sell a security, you must disclose the material facts that are important.

In my judgment as a financial expert, I would consider certain facts that they knew that may not be publicly available of great materiality.

Q What facts?

A Well, specifically they would have to indicate the majority position and that the minority position could be forced out. Too, they would have to disclose that the Pocono had been aborted, and I think that had been very important in investors' minds up to that point.

Q What do you base that opinion on --

MR. LIMAN: Will you let him finish his answer?

Objection, your Honor.

MR. RYAN: Excuse me. I am sorry.

A You mean, the opinion that the Pocono was aborted?

Q Yes. Do you want me to read back your answer?

A No. I was told by counsel it was aborted.

Q What was that?

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A I was told by counsel it was aborted.

Q All right. Finish your answer. Excuse me, Doctor.

A Thirdly, I believe they would have to disclose information on the safety factors of the Twin Comanche. I would believe they would have to disclose information such as was in the Arthur Young report and in the treasurer's report of their inability to actually carry out a project above the 100,000, that they couldn't sacrifice the small plane area for the large.

All of these, which were known by both parties. In other words, they would have to disclose the information that I had available on which I made my valuation.

Q All right. Now, let's go back into the information you said you had available on which you based your valuation. I assume when you said that, that these factors had some bearing upon your \$7.50 valuation?

A Important, yes.

Q Important factors?

A Yes, sir.

Q All right, now let's go back to the Pocono. You say the Pocono was well known to the investing community and they had big expectations about the Pocono?

A May I explain it?

Q Yes, I would love to hear.

A The 1967 and '68 annual report which of course spread through the financial committee indicated -- I have the reports, but I don't think you want me to read them -- indicated this was their major project, that area of commuter airlines, what they call the third airline, was a fast growing area and that they intended to and it was very important for them to enter it.

One magazine had a picture of the Pocono on the front, giving it that type of publicity. So in my judgment a financial analyst or investor looking at the material I have reading that the Piper Company itself stated this was a very important area in which they should move and that this was their major project in '67 and '68, therefore I would, as an analyst, the fact that they couldn't handle it and knowing that the treasurer had said they weren't capable of handling this type of a project, these I consider very material.

Q Did you in the course of your investigation

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make any study into the condition of the third airline,
third-tier airline market in '69 and '68?

A It had a recession just like --

Q Everyone went broke, didn't they?

A I wouldn't say --

Q Is there one third-tier airline today operating?

A Is there one operating?

Q Yes.

A That I don't know, but my judgment is that
they are going to and it has a future. I agree with
Piper -- in other words, I agree with Piper --

Q Excuse me?

A I agree with the Pipers' analysis --

Q Have you made any current study of the
third-tier airlines?

A I was valuing the stock as of August-September
'69.

Q You just expressed an opinion that you have
great confidence in the third-tier airlines. Have you
made any present study of their present condition?

A I judge, in August-September 1969, as I
valued the stock, I agreed with Piper.

Q In '69 you agreed with them?

1
2
3 A Yes.

4 Q Do you agree with them today?

5 A I don't have an opinion.

6 Q You also testified that the safety problem
7 of the Twin Comanche disturbed you?

8 A Yes, sir.

9 Q What disturbed you about it?

10 A Well, I read the Stieglitz report -- I am not
11 a technician. May I explain how I would look at it?

12 Q I want to know what you based your views
13 on, not how you looked at it. All you had before you was
14 the Stieglitz report.

15 A I was told about the fact they had to
16 put this card on it. I am not a --

17 Q Were you told that the FAA approved the
18 putting of the card on the plane?

19 A I can't answer that question.

20 Q Were you told that the Stieglitz report was
21 given to the FAA by Chris-Craft?

22 A I am sorry, I can't answer. I don't remember.

23 Q Did you ever hear or learn that the FAA
24 ever grounded the Twin Comanche?

25 A I believe I read, and this is a recollection,

that one of their subdivisions ordered it grounded and then it was overruled in Washington. I could be wrong on that, because it is memory, but I have a rather strong feeling that I read that they had ordered it grounded and then it was overruled in Washington. Again, I am not a technical expert. I looked mainly at the sales. They reached their top sales in '64.

Q The next item you have here, Doctor, is "Pocono aborted eliminating Piper from new market potential. Lycoming engine not need FAA recommendation."

What do you mean by that?

A Again, I have to speak as a non-technician. As I understand it there, the engine they were flying in tests was not an engine that was going to be in the plane. Lycoming was preparing an engine, going to produce an engine for this plane.

Before it could actually be certified it had to meet FAA requirements and I believe, if I may use the figure, I think it was 525 horsepower, but this is memory. Anyway, they couldn't get enough power out of that engine, so Piper issued stop orders to all their suppliers on producing things and that as it stood as of August 1969 they didn't have an engine for this plane,

the one that they had thought they couldn't use and they didn't know when they would have it.

Q What does that have to do with an engine not needing an FAA recommendation? What did you mean by that? Look at table 10A.

A That is a typing error.

Q Do you mean certification?

A Certification.

Q It is your opinion the FAA did not need to certify the engine?

A It is my opinion they had to certify it and they were told it wouldn't meet the certification requirement.

Q The next one you have is "Twin Comanche, accepted record, liability, actual and potential, company's reputation."

Who told you anything about liability, actual and potential?

A No. 1, I had seen the accident records. No. 2, I was well aware they had had -- I was told I believe that they had had to make some payments and that their insurance premiums on this plane had gone up substantially.

Q How substantially?

A I was told substantially.

Q Was this fact very important in your evaluation, that the premiums for the PA30 went up substantially?

A No. It was a factor. I wouldn't say very important. What really worried me, if that is what you are asking, was that with this accident record the plane causing a serious damage, going into a school or church, that the liabilities could be very heavy.

Q Did you ever have a conversation about this subject? That sounds familiar.

A As far as the liability insurance, I believe, something was said to the fact that the premiums went up substantially.

Q Doctor, let's turn --

THE COURT: Basically everything you have under I on your table 10A really is a report of information that you received from Chris-Craft or its attorneys and it doesn't represent any market or financial analysis of your own? Isn't that right?

THE WITNESS: I am sorry, sir, I disagree. Most of this information is as you described it, but as a financial analyst I stated what my judgment would be if I had this information.

THE COURT: The source of your information --

does that correctly state the source of your information?

THE WITNESS: Yes, sir.

THE COURT: Is that the kind of information about which there could be a division of opinion?

THE WITNESS: Well, I would have to go down through each item, I suppose.

THE COURT: Go down through each item and let me know whether those are not controversial matters where different people have different views.

THE WITNESS: As I understand state law, they vary by states as to the percentage with which you can force a merger --

THE COURT: Just take it in terms of my reference. LA, is that something about which different people and lawyers and clients can have different views?

THE WITNESS: Well, I believe Bangor Punta stated that it intended to merge.

THE COURT: It did? When did it say that?

THE WITNESS: I am sure -- there was an injunction against it, but I must admit -- I can't give you the citation, sir, and that is why there was an injunction against the merger during these proceedings, as I understood it.

1
2 THE COURT: Had it announced, so far as
3 you were informed, that it was prepared to merge?

4 THE WITNESS: Yes, sir, that is what I
5 was informed, I believe.

6 THE COURT: So that according to the informa-
7 tion that you had in August or September of 1969, item 1
8 was moot because there couldn't be any merger?

9 THE WITNESS: Until these proceedings were --

10 THE COURT: It was moot until those proceedings
11 were over.

12 How about item 1 before, is that the kind of
13 item about which there were differences of opinion and
14 on which you couldn't safely rely on one or the other
15 without personal investigation?

16 THE WITNESS: NO, sir. It had the choice
17 of waiting until there was a merger or to hold the stock
18 as a minority stockholder, which I don't think was the
19 choice, and offering the stock to others, to sell it.
20 That would be my judgment.

21 THE COURT: How about 1C?

22 THE WITNESS: I assume that corporate
23 directors in a situation where they have power to form
24 a merger in a cyclical -- I am sorry -- that is my
25

1
2
3 general knowledge not as an attorney but as a financial
4 analyst of the security legislation and I have testified
5 quite a bit on that, that you do have to disclose
6 material information or else you are laible. These
7 10B cases, most of them are of that type. I certainly
8 wouldn't want to have anything to say to approve a
9 registration statement ---

10 THE COURT: Why did you call attention to a
11 truism as item 1C in the list of major factors? Is
12 telling the truth a major factor?

13 THE WITNESS: These itmes were a major
14 factor in valuation and I am simply explaining that if the
15 stock was sold they would have to give the same information
16 to the investors that I had, and I assume that a financial
17 analyst would come up with the same valuation.

18 THE COURT: 1D.

19 THE WITNESS: I was told that it was aborted
20 and I read a considerable amount of material on the Lycoming
21 engine.

22 Again, I am not a technical person,
23 but as I understand as a result of the correspondence
24 between Lycoming and the company that Piper issued
25 stop orders to all or most of their suppliers on any

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other parts of the plane and that they couldn't meet the FAA, and of course that is a typographical error -- certification.

THE COURT: How about 1E?

THE WITNESS: I looked first of course at the Twin Comanche and saw their maximum production was a year after it came out and from then it went down. I did see the accident records. I would assume this would affect their reputation and the plane and I could assume that there would be very serious liability. They only have four planes, really, above that low-price class, the Aztec, the Navaho, the Twin Comanche and, hopefully, the Pocono.

So I would think that -- what I read was only a skilled pilot could actually handle them. I am not a technical man -- I am a captain in the navy reserve and deal with the Bureau of Aeronautics quite a bit --

THE COURT: You don't run a ship that way, do you?

THE WITNESS: I don't know how to run a ship, my wife says she won't let me have a boat until I take lessons.

THE COURT: Would you mind taking a short

recess?

MR. RYAN: Not at all, your Honor.

(Recess)

BY MR. RYAN:

Q Doctor, in arriving at your earnings multiple and your estimated earnings per share and sales growth, did you investigate the prior price-earnings ratio to earnings and sales growth of Piper Aircraft, in the past?

A I looked at it, but I don't pay much attention to that.

Q Well, for example, you have here as your compounded sales growth 7.5 per cent, and you testified, I believe, that you arrived at that through your trend-channel method. That is P10B I am directing your attention to now, Doctor.

(Pause)

A Yes.

Q Do you have P10B in front of you?

A Yes, sir.

Q You testified you arrived at your 7.5 per cent compounded sales growth rate by using your trend-channel method, is that correct?

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2
3 A No, I don't believe I testified that way.
4 I said that was one of the ^{Considerations.} ~~considerations.~~

5 Q Did you give any consideration to Piper
6 Aircraft's historical sales growth?

7 A Yes.

8 Q Do you know what the compounded sales
9 growth for Piper was for the period, we will say, from 1970
10 back to 1961?

11 A I would have to look it up. I believe I
12 had it in here.

13 Q If I told you it was approximately 13.66,
14 would that refresh your recollection?

15 A Well, I think I would have to look.

16 (Pause)

17 A What was the period?

18 Q Well, let's take from 1970 back to 1961.

19 MR. LIMAN: If the witness is looking at
20 a chart in evidence, will he identify it?

21 THE WITNESS: I am looking at A7.

22 (Pause)

23 A I could calculate it, but I would have to
24 calculate it. I couldn't say whether it was correct or
25 not without calculating it.

Q Did you ever calculate such a figure?

A The calculations I had were on this basis because, in my judgment, you had a period up to the mid-1960s which was the peak of the industry units and the peak of Piper's profits, and then you had a period after '65 or '66, so I calculated from '59 to '66 and I calculated it from '59 to '66 and from '66 to '69 and from -- then of course I calculated it just for that last year of '70.

So I calculated it for those periods they were the important ones.

Q In other words, you took out the high point of the cycle?

A I don't understand.

Q '66 was the high point, wasn't it?

A Not for sales and billings, no. The high point was 1969. It was the high point of earnings for Piper.

Q What figures did you come up with as to the compound sales growth?

A Do you have A7 in front of you? They are not on a compound basis. They show 1959 equals a hundred--

Q I asked you, Dr. Bellemore, did you compute the compounded sales growth of Piper Aircraft for the

years prior to 1970?

A No, sir.

Q You didn't consider that important?

A I had the chart which showed it did about as well as the industry.

THE COURT: Did you consider it important?

THE WITNESS: The compound rate? Not the actual calculation of the actual rate when I saw they did approximately the same as the industry.

Q But you didn't think it important when you arrived at your conclusion to use the factor 7.5 per cent for the compounded sales growth, is that correct?

A I don't understand the question.

Q Did you consider it important, Doctor, as to what the historical compounded sales growth of Piper was when you arrived at your conclusion to apply 7.5 per cent to your opinion?

A The answer is, of no importance at all.

Q The next item I note on 10B is that, if I understand your table, that you anticipate that it will take until 1976 before Piper achieves the sales or approximately the total sales that they had achieved in 1969?

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3 A That is correct.

4 Q And you of course have taken into this con-
5 sideration the cyclical effect or effects existing in the
6 general aviation industry?

7 A As of '69?

8 Q Yes.

9 A Yes.

10 Q And when you --

11 A May I explain that?

12 Q I don't believe I need any explanation.

13 The next conclusion you reach on your calcula-
14 tions is that when Piper reaches the 1969 sales, which
15 is approximately the 1969 sales, the earnings per share
16 will be \$1.50?

17 A That is correct.

18 Q What relationship does that have to the
19 net earnings of Piper in 1969?

20 A What relationship does it have?

21 Q It is approximately 50 per cent of the net
22 earnings reported in 1969, is that correct?

23 A That is correct.

24 Q So that at the end of six years it is your
25 opinion that Piper will reach their 1969 sales but, yet,

earn less than approximately 50 per cent of what they earned in 1969?

A Yes, after two years of flat earnings, which would be '70, '71. May I say this was only based not knowing that they lost money at that point.

Q The price-earnings factor you place on it is 10?

A Correct.

Q How did you arrive at 10 times earnings?

A I am valuing the stock as of the particular point of time, and the market conditions, and so forth, at that time for price-earnings ratios. I looked at the records of earnings, cyclical, and otherwise, the Dow Jones industrial average, and of Standard & Poors, which is similar, and of Cessna for this period of time and also of dividends. The Dow Jones was selling at 13.9 at this particular time, Cessna was selling at 11 and actually I think the price-earnings ratio was high, really, but it is essentially my judgment on the conditions as they existed at that time and my estimate of projection there, but especially the record from 1965 to '69 compared to the Dow and to Cessna and to Standard & Poors 425 industrials.

Q In the ten years preceding 1969 did Piper ever sell at 10 times its earnings?

A No, because it never had -- the answer is no -- well, again, I would have to look at the --

Q Did it ever sell for less than 10 times earnings?

A Yes, it sold at 6 one year, but I forget --

Q How long did it sell at 6?

A Essentially it didn't sell below 10.

Q Do you know how long it sold below 10?

A No, sir.

Q Do you know how long it sold at 10?

A I didn't consider it important. I didn't know.

Q You didn't know?

A I say I did not consider it important, so I don't remember.

Q If you are starting your formulization as to what the stock is going to be worth in six years, don't you think it would be important to ascertain whether your factor of your multiple is correct?

A Absolutely. It is the judgment of the analyst and I think the past record of P_A^E 's is not important at all.

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Chemical sold at 26 times earnings -- well, I don't think it is important.

Q When you started your, I believe you call it, factor for growth rate of 15 per cent --

A Right.

Q -- you started at 65 cents a share?

A Right.

Q Did you ever ascertain whether Piper's earnings ever were as low as 65 cents a share in the previous ten-year period?

A In the previous -- yes, I have the figures right here, right in front of me. The figures -- this is the bad thing about it. They were down in '61 to 53 cents.

Q That is correct.

A Now ---

Q 1963?

A 1962, I believe.

Q '62?

Try '61.

A I am sorry. '61.

Q So you started 53 cents in 1961?

A Right.

MR. LIMAN: You are both referring, I take it, to chart A-7?

MR. RYAN: I am not referring to anything. I am just examining the witness.

MR. LIMAN: Sorry.

Q So that you started your 15 per cent compounded from the area of the ^{lowest} ~~lower~~ earnings for Piper from the last ten years?

A Oh, no. They lost 47 cents --

1 pj-2 Bellemore-cross

3272 A 1246

2 Q That is 1970, Doctor. You are basing it on
3 1969.

4 A That's correct.

5 Q You didn't have that in front of you at the
6 time?

7 A That's correct. I had estimated that they only
8 earned that much for many reasons that I discussed,
9 and I thought that the recovery would be very slow.

10 Q Now, Doctor, let's move on.

11 As I understood your testimony, you attributed
12 the multiple or the 20 to 30 range of Piper in 1967,
13 '68 and '69 to the fact that Piper was a target of the
14 conglomerates.

15 A Well, may I repeat what I testified?

16 Q Yes.

17 A I would --

18 Q I would like to hear it again.

19 A I testified that on the earnings on the dividend
20 record of Piper vs. the Dow and Standard & Poor's
21 Cessna, it didn't deserve to sell at even as high a
22 price-earnings ratio as the Dow. Specifically in
23 September, 1969, the Dow was 13.9 cents, and I put 10.
24 Now therefore I had to look for a reason why it might
25 have sold at that price-earnings ratio, and in my

judgment the only reason that I as a financial analyst could assume that it was, one, the biggest merger movement in history.

Second, that in this merger we had a group known as conglomerates, which were a fad there. They attracted investment attention; even the Swiss banks bought the convertibles of these conglomerates. They sold in little respect to earnings.

And this is why subsequently they collapsed from a hundred to five, and so forth.

Q Excuse me. What has that got to do with the price-earnings ratio of Piper Aircraft?

Is Piper Aircraft a conglomerate?

A No. Strike that out, if I didn't make that clear. No. Piper was a candidate to be acquired by the conglomerates. It had many suitors.

Q Who told you that?

A Well, I know it as a fact.

Q You do?

A Yes.

Q Who were the suitors?

A Bangor Punta, Chris-Craft.

Q When?

A Oh, at the time there. No, it was a potential

candidate.

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THE COURT: Wasn't every stock on the board of the New York Stock Exchange a candidate for a marriage?

THE WITNESS: No, sir, I don't think so.

THE COURT: You don't think so?

THE WITNESS: No, sir.

THE COURT: All it had to do was to have earnings in cash, and it was a candidate, wasn't it?

THE WITNESS: Well, this was having --

THE COURT: And some old men running the board? Wasn't that the candidacy?

THE WITNESS: Certainly there was some of that, but I think they looked at particular industries. They looked at this as something of a leisure-type industry. They looked at particular areas which were more attractive than others.

Anyway, this is the only explanation I can give for the p/e at that time.

BY MR. RYAN:

Q Whose mythology is that?

A I don't like the term "mythology." I am a professional analyst. So if you would like to rephrase the question, I can answer it.

Q Now you testified also, I believe, Doctor, that:

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1 if you had been called as a witness in the appraisal
2 proceedings, assuming that Bangor Punta had merged with
3 Piper in August or September of 1969, it would have been
4 your opinion that the fair value of Piper shares at that
5 time was \$7.50, is that correct?
6

7 A That's correct.

8 Q Now at that time I assume you would be aware
9 of what Piper had been selling at over the New York
10 Stock Exchange?

11 A Yes. That's correct.

12 Q And in July and August of 1969 you know what
13 Piper was selling for on the New York Stock Exchange, is
14 that right?

15 A Yes. There wasn't any kind of a market, as
16 we describe a market, for it.

17 THE COURT: What were the willing purchasers
18 paying the willing sellers?

19 THE WITNESS: As I describe a good market,
20 where there is a sufficient volume of shares outstanding,
21 where you can have frequent trades without much price
22 changes.

23 Here we had a very heavy percentage of the
24 stock blocked up and therefore in my judgment it wasn't
25 any type of a market for the stock. Any way, it got up

to \$80 a share as a result of this competition for control.

Q And that wouldn't enter your opinion as an expert on the appraisal proceeding?

A No. I was asked to value the stock as of the time that Bangor Punta had obtained control. It was over. There was no longer a contest.

Q Doctor, you testified on your direct examination that if you had been called as an expert witness in an appraisal proceeding, you would have testified that the value of Piper was \$7.50, is that correct?

A After Bangor Punta had obtained control.

Q Correct.

Now prior to that time or at that time you were aware that the Piper shares were selling in the 70's, in June and July and August, and do you recall what it was selling for in December of 1968?

A 50 to 55. I guess 51 to 55.

Q And at that time was there an open market?

A Was there a market for the shares?

Q Yes.

A I didn't study the activity of the market. I couldn't make a judgment at that time.

Q Well, if I told you at that point neither Chris-

Craft nor Piper nor Bangor Punta were in the picture,
the stock was traded on the New York Stock Exchange --

A I would have to look over the volume of trades
daily and the spreads before I could decide whether it was
a good market or not.

Q Well, assume that you came to the conclusion that
it was a good market. Would that have entered into your
opinion on the appraisal proceedings?

A No. I am valuing the stock as of September,
1969.

What the stock had sold for at some other time
had nothing to do with it.

Q Do you know what the book value of Piper Aircraft
stock was in August of 1969?

A I don't consider book value of any importance
in an industrial company; therefore I don't --

THE COURT: What was the book value?

MR. RYAN: \$26, approximately.

Q Did you consider the ^{net} current assets of Piper?

A I don't consider the ^{net} current assets important
unless you are going to liquidate.

Q Isn't an appraisal proceeding essentially a
liquidation?

A Not in my judgment.

Belleme-re-cross 3278 A 1252

3278 A **1252**

THE WITNESS: A going concern. I value the --

THE COURT: When you have an appraisal as a

THE WITNESS: In an appraisal, no. That was

I had --

THE COURT: You don't agree with that? Is that

THE COURT: Well, if you were to value a share

stock, a share of Piper stock in September or

THE COURT: We will talk about the owner later on.

Let's talk about the stock and then we will discount that.

THE WITNESS: Well, I would put it on an earnings power value of seven and a half.

THE COURT: Seven and a half dollars?

THE WITNESS: That's correct.

THE COURT: And you know it was selling in the market in the 70's?

THE WITNESS: Yes, but I don't think that was a market that was meaningful.

THE COURT: What would you do would be to penalize the minority holder by about 90 per cent because he happens to be a minority holder?

THE WITNESS: No, not at all. I would penalize him if he bought it at 80 and sold it at seven and a half. But if he bought it on an earnings projection at that time he wouldn't be penalized.

THE COURT: Aren't you in effect giving me blockage value rather than the value of a share of stock?

THE WITNESS: No, sir, I don't believe.

BY MR. RYAN:

Q Doctor, let's get to the second part of your opinion and let me see if I understand you correctly.

Is it your opinion that of the shares of Piper Aircraft owned by Chris-Craft in August of 1969, 42 per cent approximately were worth \$7.50 a share?

A Yes, sir.

Q And then is it your testimony that the shares of common stock of Piper owned by Bangor Punta were worth \$73 a share?

A I testified that the value of the shares representing the controlling group would be worth practically \$73 a share, which figure I calculated by taking what had actually been paid by Bangor Punta and Chris-Craft for the stock in order to attempt to get control, on the knowledge that they could then obtain the other at a price, say, of \$7.50, and come up with an average cost of 45.

So on that basis, that stock, the controlling stock, in my judgment, had a value of \$73 a share.

THE COURT: Does an expert value a share of stock on the basis of what somebody pays for it, unless it happens to be a going market value?

THE WITNESS: Well, here we have a competitive situation. My judgment --

THE COURT: If you can't answer the question, it's all right.

THE WITNESS: The answer is if it is controlled, this is a very important factor, the value of the control.

THE COURT: I asked you whether an expert, disregarding the fact of the existence of a market value -- whether an expert would value a share of stock at what it costs somebody?

THE WITNESS: If he was specifically asked to value a particular block of stock, and again I have testified in the Ingersoll-Rand case, \$5 million by Michael Brace, I was valuing that particular stock. If I had a free market with a million shareholders, and each one owning a share, that was one thing.

But if I am asked to value a block, either a minority block as a block, or a majority block as a block, then I have to consider the matter of the control, and the matter is minor in the valuation.

THE COURT: Let's examine this problem of what you consider control value.

What inheres to control that is worth money?

THE WITNESS: Well, with 50-plus per cent, they could get 100 per cent, and with that they could change this management, which was the worst example of nepotism that I had ever seen, a management whose --

MR. PENNOYER: Objection and move to strike, your

1
2 pj-12
3 Honor.

Bellemore-cross

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3282 A

4 THE COURT: Strike it out.

5 A And in my judgment there had to be a change in
6 management.

7 They could change the management, change the
8 direction of this company. They could afford to wait a
9 long period of time, which the individual investor could
10 not.

11 They could afford to make capital expenditures
12 in the company and move into this other field.

13 It was all these factors which I considered with
14 the 50 that they could get 100, and I assumed --
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Bellemore-cross

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THE COURT: Aren't you confusing ownership with value?

THE WITNESS: I don't believe so, your Honor.

THE COURT: Go ahead, Mr. Ryan.

Q Doctor, how long did you spend in formulating this opinion on the valuation of the Bangor Punta shares?

A I suppose about six months.

Q On the Bangor Punta shares?

A Oh, the Bangor Punta share?

Q Yes.

A I am sorry. Excuse me.

Q When were you asked to express that opinion?

A I would say the thing was discussed over the last few weeks several times.

Q When were you asked or told that you were going to be asked your opinion on the value of the Piper shares owned by Bangor Punta?

A When I was told I would be asked to give an opinion by my counsel or by --

Q Your counsel.

A Oh, by my counsel? I would say something like a week ago, I believe.

Q Inticed when you were testifying you had a note or a piece of paper?

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1 mp2

Bellemore -cross

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2 A I had a card, yes, sir.

3 Q Could you produce that, please?

4 A Yes.

5 (Pause.)

6 A I am afraid I can't now. I don't know where it is.
7 I could do it over again.

8 Q Other than that one card, were there any other
9 documents or charts or studies or anything else that you
10 used in formulating this opinion?

11 A No. I was told my assignment was to value the
12 minority stock. That was my assignment, I could be asked for
13 an opinion as to the value of the majority.

14 MR. RYAN: I don't wish to take any more time,
15 your Honor, but if you could ask the witness to search
16 through his papers after cross-examination --

17 THE COURT: When you find it, give it to Mr. Liman.

18 MR. RYAN: I have no further questions.

19 MR. ARNING: Just a couple of fast questions,
20 your Honor.

21 CROSS EXAMINATION

22 BY MR. ARNING:

23 Q Would you turn, Dr. Bellemore, to your Table
24 P-10B?

25 A Yes, sir.

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Q Do you have it in front of you?

A Yes, sir.

Q There are two mathematical computations there that seem to relate directly to your conclusion. One is 10 times your top estimate of 1971 earnings of 75 cents per share, and that gives you \$7.50, is that correct?

A That's correct.

Q And the other, I take it, is the calculation relating to the sixth year, 1976, and you take 10 times that year's average estimated earnings of \$1.23 and that gives you \$12.30 and you discount that back to present value and arrive at \$7.62?

A That's correct.

Q Is that last calculation valid only for that one figure, the middle estimate for the sixth year, or could you do substantially the same with any one of the other figures in that three-column table?

A Well, in other words, could I compare the price-earnings ratio and get a present value?

Q Yes, could you have equally as well taken 10 times \$1.11, which is the fifth year, and discounted that back to present value?

A That's correct.

Q So if a merger was forced at any point in those

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seven years, the calculation, as far as this calculation is concerned, would arrive at exactly the same value or substantially the same value, would it not?

A I am sorry, I don't follow.

Q I am relating to a point you made, I had thought, that one of the factors that gives the majority value and detracts from the value of the minority is that the majority holder can pick the bottom of the cycle to merge out the minority and thereby obtain it more cheaply? Wasn't that one of your points?

A Yes, sir, it was.

Q In fact, as long as you value only on the basis of a compound annual growth rate and the same earnings multiple, then it really doesn't matter and that advantage is illusory, is it not?

A I am sorry, I don't follow you.

Q All the minority is gaining is interest rate and all the majority is gaining is 10 times that year's earnings and it makes no difference?

A In other words, what you are saying is that if earnings grew at this particular rate, he could not obtain this stock -- he could obtain this stock as cheaply at any point?

Q That is correct. And if your opinion were

consistent on appraisal rates, the man would get substantially the same valuation at that time that he would get at the bottom of the cycle?

A No. The flaw in that is this: I am valuing the stock as of September, 1969, when the Dow was selling at 13.9 P/E and when Cessna was selling at 11 and that is when I gave the 10 there. If you came out of a recession to better business and a stock market level instead of 809 back to a thousand on the Dow, with the Dow, say, selling at 25 times earnings, the factor would be different. So the stockholder could get advantage of that factor as well. I simply used the same one, the same 10, because that would be the price-earnings ratio which I feel should be used valuing the stock as of this particular point. What it might be if the Dow --

Q Excuse me, Doctor, but we are getting very late and we have other things to do.

Aren't you applying the 10 times earnings multiple to the year 1976?

A That's correct.

Q Is there anything that makes that multiple correct for 1976 and wrong for 1975, in your Exhibit P-10B or your calculation in arriving at your conclusion?

A I am considering in this valuation two factors,

both the 10 times the 75 cents or \$7.50, as one factor, and the other is this present value. I would also look at both. So in determining that value, I would look at both of the factors there, both the price-earnings ratio in the current year and also on the present value basis.

Q If the earnings multiple that was appropriate in 1976 was not 10 but 25, then your calculation would mainly have to be quite different and your result would be quite different?

A Oh, no question.

MR. ARNING: No further questions.

REDIRECT EXAMINATION

BY MR. LIMAN:

Q Dr. Bellemore, you were asked some questions by the Court on what makes a target company. Is capitalization a factor in whether a company would be considered a target company?

A You mean who owns the stock?

Q And what its general capitalization is.

A The amount of stock, the amount of debt, the preferred stock, and so forth, yes, all those would be factors.

Q For example, was A T & T considered a target company?

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2 A No, sir.

3 Q Do you know anybody who considered General Motors
4 a target company?

5 A No, sir.

6 THE COURT: What year?

7 THE WITNESS: 1921, when Durant lost control.

8 Q Is there a reason why you regarded it not as im-
9 portant to arrive at the particular compound growth for
10 Piper?

11 A You mean why I showed alternatives?

12 Q You testified that you did not look back historically
13 and figure out what their actual historic compound growth
14 rate was.

15 A Well, this is the way to the cemetery in the invest-
16 ment business, to take the past record and project it.
17 You will see what it is but if you feel you have to value
18 it as of conditions at that particular point and the character-
19 istics of this company and its position in the industry were
20 the major factors -- I didn't consider important what that
21 growth rate was, I recognized what it was.

22 Q Did you in the course of your analysis actually
23 compute the P/E ratio of Piper versus the Dow-Jones?

24 A Yes.

25 Q Did you consider it?

1
2 A Yes.

3 Q And would you explain why you did not use the
4 actual P/E rate of Piper in your computation of the value
5 of Chris-Craft's block as of September, 1969?

6 A We have standards such as the 425 industrials
7 and the Dow-Jones industrial which are a composite of what
8 earnings have done, and also in this case I looked at Cessna.
9 So all you are buying are earnings and dividends and all
10 you are buying on the stock is the growth and volatility.
11 You pay for growth, you pay for volatility. If it is not
12 going to grow, you wouldn't buy any stock. So you look at
13 the growth rate of the company, say, for the last five years
14 and you look at earnings and dividends and you look at
15 the volatility. Essentially the price-earnings ratio paid
16 in the market at any point of time is a factor of two items,
17 the expected growth rate and volatility. IBM, say, sells
18 at 35 times earnings because it is expected to have a growth
19 rate about twice the Dow and a lower volatility. A stock
20 that is expected to have about the same growth rate as the
21 Dow and the same volatility will sell about the same P/E.
22 Automobile and steel stocks are expected to have a slower
23 growth rate of earnings and more volatility and will sell
24 at a lower one. So you make the comparison to these stand-
25 ards.

1
2 Q Finally, I don't think I understood why you said
3 that you considered the cost that Chris-Craft and Bangor
4 Punta paid for their stock in the effort to secure control
5 as relevant in determining what the value of a control
6 block was.

7 A They paid competitively what they had to do to
8 obtain this control, keeping in mind, as I assume they would,
9 that the 50 per cent would also enable them to acquire later
10 the 100 per cent.

11 MR. LIMAN: No further questions.

12 THE COURT: You say they paid competitively?
13 You mean to say that you assume that Chris-Craft would have
14 sold out at \$7.50 a share?

15 THE WITNESS: No. I said \$73 represented the
16 total cost to Bangor Punta and Chris-Craft of all the stock
17 that was acquired. They competed for that stock on the basis
18 of what they thought the value of control was and inasmuch
19 as this would eventually bring them the hundred per cent.
20 I assume that that was a reasonable value.

21 THE COURT: Any other questions?

22 MR. RYAN: I have no questions, your Honor.

23 THE COURT: Thank you very much, Dr. Bellemore.

24 (Witness excused.)

25 THE COURT: Anything else this afternoon, gentle-

THE COURT: Received.

(Defendant Exhibit AQ for identification
received in evidence.)

CLIFFORD L. FITZGERALD, JR.,

called as a witness on behalf of the defendant,
being first duly sworn, testified as follows:

THE CLERK: What is your address?

THE WITNESS: 60 Broad Street, New York City.

DIRECT EXAMINATION

BY MR. RYAN:

Q Mr. Fitzgerald, by whom are you employed?

A Drexel Firestone, Inc.

Q And in what capacity?

A I am a senior vice-president and head of the
Corporate Finance Department, chairman of the Corporate
Commitment Committee and a member of the executive committee
of that firm.

Q Mr. Fitzgerald, will you please relate to us your
education, from college?

A Yes. I attended Dartmouth College in the years
1948 to 1952. I entered the Air Force as an aviation cadet
in 1952, becoming ultimately a first lieutenant and jet
interceptor pilot, and upon leaving the Air Force in 1956
I entered Harvard Business School in 1956, graduating

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with with distinction in 1958.

Q And would you now relate to us your employment background since leaving Harvard Business School?

A Yes. I was a course assistant at Harvard Business School for a year, doing research in the Small Business Investment Company Act of 1958. I joined White, Weld in their corporate finance department in 1959, and in that capacity in the years between 1959 to 1964, among other things I worked on the Beech account as the No. 2 man on the account and the No. 2 man on the --

Q When you say the Beech account, what company are you referring to?

A I'm talking about Beech Aircraft. And also NARCO Scientific Industries, a principal supplier of Avionic Equipment to general aviation purchasers.

Now, in 1964 I joined Harriman Ripley, a predecessor firm of Drexel, Harriman, Ripley, which became Drexel, Firestone on January 30, 1971, and in that capacity as a vice-president I worked on financings that included the sum total of some \$410,000,000 for the Boeing Company in 1966 as a co-manager, and also two financings involving United Aircraft, which occurred in 1966 and '67, totalling about \$250,000,000, and also worked on financial matters relating to United Aircraft of Canada, Ltd., the manufacturer of the PT-6 turbo-prop engine.

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Q Now, Mr. Fitzgerald, in relationship to the duties you performed concerning Beech Aircraft, would you describe what your functions were?

A Yes. They were primarily merger and acquisition efforts undertaken on their part, none of which were consummated. It involved a thorough analysis of Beech as a company, together with other prospective companies that they might acquire. This was principally in connection with the light observation helicopter competition that was sponsored by the Army and in which Beech intended to compete.

We also examined with the company as a prelude to any possible financing their plans for the King Air, prior to the formal approval of that program.

Q Now, would you go on, Mr. Fitzgerald?

A I think that describes the activities with respect to Beech.

Q Yes. Did there come a time when you left White, Weld?

A Yes; I did. I think I have covered that. To give you the chronology, it was in 1964 when I joined Harriman Ripley. We became Drexel, Harriman, Ripley --

MR. LIMAN: Objection. I think this is repetitive. It is on the record.

THE WITNESS: All right.

Q What were your positions in the Drexel firm from the time you started until the present day?

A I became a vice-president of Harriman Ripley in 1965, a vice-president and director of Drexel, Harriman, Ripley in 1966 and a senior vice-president and member of the executive committee, chairman of the Corporate Commitment Committee of Drexel, Harriman, Ripley in 1970.

Q And what types of work have you performed at your firm?

A Work entailing public-managed underwritings, private placements, merger and acquisition work, evaluation of estate -- estate valuations and valuations of investments for the firm's account and evaluations of participations in managed underwritings.

Q And when you say "valuations," you mean valuations of companies?

A Yes.

Q That is what you meant by that term?

A That's correct.

Q And could you describe briefly what your present position is as chairman of the Corporate Commitment Committee?

A The Corporate Commitment Committee approves all

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Fitzgerald-direct

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2 the participations as a major underwriter, entered into by
3 the firm. It meets in that capacity weekly. In addition,
4 it approves all of the commitments as a managing under-
5 writer for any use of the firm's name with respect to merger
6 and acquisition work, private placements or otherwise,
7 including special studies.

8 In the latter capacity, the Commitment Committee
9 requires the concurrence of the president of the firm.

10 Q And during the course of this work, do you value
11 companies?

12 A Yes; I do.

13 Q Do you or does your firm have any relationship
14 now or in the past with the Bangor Punta Corporation?

15 A Not other than as a participant in any syndicates.

16 Q And when you say "syndicates," you mean underwriting
17 syndicates?

18 A Yes.

19 Q What about Piper Aircraft Corporation?

20 A Only in the same capacity.

21 Q And do you have any relationships with First Boston
22 Corporation?

23 A As a competitor and as a participant in their
24 syndicates.

25 MR. RYAN: Do you have any questions as to Mr.

1 Fitzgerald's qualifications? I believe he has been quali-
2 fied.
3

4 MR. LIMAN: No objection.

5 MR. RYAN: Mr. Fitzgerald is not going to testify
6 concerning the Bangor and Aroostook Railroad. There is
7 a second gentleman. So I think as far as Mr. Kushner is
8 concerned, it is not necessary for him to express himself.

9 Q Now, Mr. Fitzgerald, in your opinion what would
10 have been the market price of shares of common stock of
11 Piper Aircraft Corporation on May 7, 1969, in the absence
12 of efforts by anyone to obtain a majority of the outstanding
13 shares of common stock of Piper Aircraft Corporation?

14 A We believe the price would be approximately \$55
15 per share.

16 Q Could you tell us how you arrived at that price?

17 A Yes. We examined the trading in Piper common
18 stock in a period prior to purchases with a view to obtaining
19 control, and we compared the prices of Piper during that
20 period to that of the Standard & Poor's 425-Industrial
21 Index, as well as the Cessna prices.

22 In the case of the Standard & Poor's and Cessna
23 and Piper, we were comparing the price-earnings ratios for
24 each relative to the other during the period that we thought
25 was representative. That was a 13-week period. We again

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1 compared the ratios that represented the average of Piper's
2 price-earnings ratio to the Standard & Poor's price-
3 earnings ratio and the average of Piper's price-earnings
4 ratio to the Cessna price-earnings ratio to see whether
5 disproportionate weighting should be given to one or the
6 other, concluding that they should be weighted evenly,
7 because the scatter of the data about the average was very
8 small in each case and approximately equal.
9

10 The price-earnings ratio derived was 23.3662,
11 and that was applied to the latest 12-months' earnings then
12 reported for Piper of \$2.36, producing a value, derived
13 value of \$55.14, which we have rounded to approximately
14 55.
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3 Q Mr. Fitzgerald, in your opinion, what was
4 the value of shares of common stock of Piper Aircraft
5 Corporation on or about September 5, 1969?

6 A Approximately \$42.10.

7 Q In your opinion, what was the value of the
8 shares of common stock of Piper Corporation on or about
9 March 9, 1971?

10 A Approximately \$51.92.

11 Q Could you relate to us how you arrived at
12 those conclusions?

13 A Yes.

14 Q If you are going to refer to the charts
15 during the course of your testimony, it would help
16 if you identify them before you refer to them?

17 A All right.

18 Appendix B, which is the third page in our
19 book of exhibits, sets forth the computations which
20 were made in the process of deriving these values.

21 The first input involved a projection prepared
22 by the Piper Aircraft Corporation reviewed by us of \$6
23 per share for the fiscal year ended September 30, 1973.
24 We then examined the relationship of Piper's price-earnings
25 ratio relative to that of the Standard & Poors 425

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1 industrial stock index during a period which we thought
2 represented a normal period, that is, free from the upward
3 distortions of price-earnings ratios that characteristically
4 occur in the case of cyclical companies when they are
5 confronted by a downturn in earnings. That period was 1963
6 through 1966 and involved four years.

7 Exhibit 3 is a graphic presentation of the
8 relationship between Piper's price, Piper's earnings, and
9 Piper's price-earnings ratio, in each case relative to
10 the 425 index, and we have indicated or highlighted
11 the period that has been used by us in establishing
12 what we regard as a normal relationship between Piper's
13 price-earnings ratio and that of the 425.

14 That relationship during that period averaged
15 74.2 per cent of the ratios prevailing at the same time
16 for the 425 Standard & Poors index.

17 We then examined the price-earnings ratio
18 for the Standard & Poors 425 index, and I am now referring
19 to Exhibit 4, which sets forth graphically the price-
20 earnings ratio of that index for the years 1960 through
21 1968, which we have extended in the table below the
22 graph through the first half of 1970.

23 An examination of that graph indicated to us

that there is no clear secular trend or departure of the S&P price ratio from the average, which we calculated to be 17.87.

We then multiplied the average Standard & Poors price-earnings ratio of 17.87 by the average relationship of Piper's price-earnings ratio to the Standard & Poors ratio, deriving a normal ratio for Piper stock of 13.26 times earnings, which applied to the forecasted earnings of \$6 per share produced a price in 1973 of \$79.56, approximately, which price we would expect to be the central tendency or midpoint of prices in that time period.

We took one further step --

THE COURT: Just a minute. I want to get the last several words.

(Record read.)

A We then took a further step: We applied a charge representing estimated expenses in connection with the sale of the stock in November 1973 of 5 per cent, together with additional expenses of approximately \$150,000, which produced an amount that could be realized in that time period of \$75.37.

MR. LIMAN: Could you give me that figure

again?

THE WITNESS: \$75.37, approximately.

A (Continuing) We then considered, based on our examination of Piper and the proximity which a director has to the affairs of the company, its current earnings and future prospects, that a rate of return of 15 per cent pre-capital gains tax would be reasonable as an expectation for the holding of the security.

Accordingly, we discounted at that rate from November 1973 and from a price of \$75.13 back to two dates, namely, March 9, 1971 and September 5, 1969, deriving the two values I enumerated.

Q Which two values?

A March 9, 1971, \$51.92, September 5, 1969, \$42.10.

Q Could you briefly go through each of the exhibits incorporated in your book which relate to these conclusions and just highlight the portions of the exhibits which you believe relate to your opinion or would make your opinion more understandable?

A Yes.

Exhibit 1 is responsive to the question of

1 where Piper would have traded on May 17, 1969. We
2 have highlighted the 13-week period that we felt was
3 a reasonable standard, and we have not included Beech in
4 this examination owing to the fact that its earnings
5 and stock prices were declining precipitously during this
6 time period. Cessna, however, was reporting level
7 earnings, as was Piper and because of its comparability
8 with Piper, we included it.

9 THE COURT: What does Exhibit 1 then show?

10 THE WITNESS: It shows a relationship
11 highlighted and within the box in the lower righthand
12 corner of the exhibit of Piper's price-earnings ratio
13 relative to that of the S&P index and also Piper's
14 price-earnings ratio relative to that of Cessna, and
15 those two values were then averaged.

16 That figure was used in our Appendix B.

17 A (Continuing) Exhibit 2 represents a
18 forecast prepared by the Piper Aircraft Corporation
19 marketing research department and the Piper Aircraft
20 Corporation finance and administration department, and
21 it is a projection for the years 1971, 1972 and 1973.
22 We have added to that projection the results for operations
23 for the years ended 1970, for comparative purposes, and

ness of the projections, and in the course of doing that we had no reason to believe that they were not reasonable.

Exhibit 3 we have already examined, as well as Exhibit 4.

I would like to comment on Exhibit 3, however, with respect to the highlighted areas that indicate the sharp downward earnings experienced in 1961, together with the very sharp recovery in the years 1962 and '63, which is characteristic of a cyclical company.

I would also like to highlight the behavior of Piper's price-earnings ratio in that same time period, noting that that ratio reached a high point of 75.6 in 1961. It may also be noticed that the price-earnings ratio of Piper was higher than normal during another period of declining earnings, namely, 1967, '68.

In contrast to --

THE COURT: What is the difference you attach to those facts?

THE WITNESS: I believe that the projections of earnings for a cyclical company from a low point is a different exercise than it would be for a company that is producing earnings within a normal trend, where you are

trying to gauge the long-term secular performance of that firm.

I think it is easier to anticipate a very sharp rebound for a cyclical company because those patterns are repeated so often. The price-earnings ratio of 75.6 is hardly normal but one would not imagine it would be appropriate to use a normal price-earnings ratio against a cyclically low level of earnings and I think the chart suggests that the market doesn't do that.

A Having examined the earnings profile of Piper during a recession, Exhibit 5 presents on a similar basis the price-earnings ratio for Cessna, which has been highlighted over the years in question, and it can be noted that a saucer-shaped profile results. This is partly because Cessna has a significant amount of sales and earnings in areas other than general aviation and it is also partly, we believe, from our examinations, based on the fact that they have a more rigorous attitude towards their independent distributors and, in turn, towards their dealers.

So that those two entities tend to buffer, to a greater extent, any volatile action in market demand. At the same time it can be noticed that Cessna's recovery is at a slower pace.

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Exhibit 6 presents, on a dollar basis, general aviation plane sales for the industry and for Piper, in the first case from general aviation manufacturers association figures, and in the second case, together -- together with Booz, Allen -- and in the second case from Piper's annual reports. Here again it can be noted that while Piper is closely linked to its industry, it shows greater declines in periods of adversity and sharper recoveries subsequently than the industry as a whole experiences.

THE COURT: How is that illustrated by Exhibit 5?

THE WITNESS: The highlighted areas, your Honor, in the lefthand margin show for the industry a less rapidly decline than for Piper.

THE COURT: Is the contrast significant?

THE WITNESS: We believe it is. We believe that Piper is more cyclical.

THE COURT: What I am saying is that according to the chart here the rapidity of the decline does seem to have distorted the chart too severely, or am I mistaken in reading the chart?

THE WITNESS: No, I think it is graphically

not a dramatic departure.

THE COURT: Could you give me the comparable figures or percentages that underlie the depiction in the chart?

THE WITNESS: Yes, sir.

MR. LIMAN: Excuse me, your Honor. There are two charts in Exhibit 6 and I don't know whether you are looking at the same one. I think they look a little different graphically, your Honor.

Am I right there are two charts in 6?

MR. RYAN: Right.

THE COURT: I have three charts.

MR. LIMAN: I am sorry, three.

THE WITNESS: Your Honor, I thought I had that backup material behind this, but I am afraid I would have to rummage to find those figures.

THE COURT: Which of the three charts has the largest scale to visualize this?

THE WITNESS: I think the scale is comparable in each case. The first chart represents aggregate industry figures and aggregate Piper sales, while the second and third charts set forth on a similar basis the results for single-engine aircraft and twin-engine

aircraft, respectively.

THE COURT: It is only in the twin-engine aircraft that you get the sharper dip?

THE WITNESS: That's correct.

THE COURT: But on an overall basis is it not intended by this chart to show that there is basically a graphic relationship of the industry with Piper?

THE WITNESS: Yes, with some greater accent on cyclical effects in the case of Piper.

The part setting forth the twin-engine sales is in contrast to single engine and we keep in mind there is generally a disproportionate consideration to profit from the twin-engine aircraft, which is higher priced.

THE COURT: Which way does the distribution run?

THE WITNESS: Higher in the case of twin engine than in the case of single engine.

And the third photograph is designed to help visualize Piper's performance during the period of adversity in the most important part of its product mix.

Exhibit 7 is on a unit basis and sets forth Piper's share of the industry market. It indicates an

increase in share during 1961, whereas the prior exhibits, on a dollar basis, would indicate that Piper was running into greater difficulty than the other manufacturers.

There is a distortion, however, in 1961 arising from the introduction of an aircraft, the Colt, that sold, I think, over a thousand units.

There is a declining trend in this Exhibit 7 and to a considerable extent the introduction and emphasis placed by Cessna on their trainer, the model 150, can account for that decline.

The model 150 is a low-priced, two-place trainer, and not a heavy contributor to profit.

The exhibit behind that graph is merely backup material.

Exhibit 8 sets forth the market share of Piper based on dollars as opposed to units, and it represents quite a different picture. It suggests that there is no downward secular trend in Piper's share and it suggests that the company has a significant share in the markets in which it is active.

1
2 The next sheet is merely back-up material for
3 the graph.

4 Exhibit 9 is a further examination of the shares
5 enjoyed by Piper models within their respective markets,
6 and while these shares have declined in 1970, they compare
7 favorably with prior years and are, on an absolute basis,
8 significant.

9
10 There are two other factors that can be noted
11 from this exhibit: First, the figures for market shares
12 shown in the column headed "Navajo-31," where, on introduction,
13 that aircraft achieved a 22 per cent share of a significant
14 market in its first year, rising to 41 per cent in the
15 second year and stabilizing at that level. Second, under
16 the column headed "Other Twins," which in fact relates to
17 turbo-props, the turbo-prop market is quite significant in
18 its size compared with the other markets that you see here,
19 so that an important share in that market would be very
20 important for any company who achieved it.

21 Exhibit 10 sets forth price relationships of
22 Piper products to that of its competition and helps to
23 define the markets that were used for purposes of the prior
24 exhibit.

25
26 Piper has been increasing its prices somewhat
27 more rapidly than that of the competition, with particular
28 emphasis upon Beech, who, on page 2, can be seen to have

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reduced the prices in 1971, and in the case of the King Air 90, to a very significant extent: 14 per cent.

Having this view of Piper's price relative to the competition, it would be helpful, I think, to prepare price to performance, which is accomplished on Chart 11 for single-engine aircraft and light twins, and Chart 12 for light twins up through the turbo-props.

Looking at Exhibit 11, which was prepared by Booz, Allen & Hamilton in a report to Piper Aircraft Corporation dated June, '70 -- and these are 1970 figures, not 1971 figures -- it can be seen that an aircraft whose point of data appears below these lines of average relationship has a favorable relationship of price to performance, measured in terms of ton-miles per hour. We have highlighted the Piper products and feel that in a majority of cases these products, based on 1970 prices, are well ~~situated~~ situation in their markets on a performance-price basis.

Exhibit 12, which is from the same Booz, Allen report, also has a highlighting for the Piper products, and owing to the significance of the reduction in price of the Beech King Air, we have brought that down roughly to the 400,000 line, which is its current price, and at that point you can see that it is substantially above the line of average relationship, whereas slightly lower and to the right the

Piper turbo Navajo, based on the prototype performance and prospective marketprices, is well below the line.

Except for the pressurized Navajo, other products are on or below the line.

I should also indicate the turbo Comanche is above the line.

Now, with respect to the pressurized Navajo, an analysis --

THE COURT: Is this, again, measured in ton-miles per hour?

THE WITNESS: This is ton-miles per hour, sir.

A (Continuing) In the case of the Piper Navajo, I would like to point out that base list prices are used here, and in point of fact the equipped price of Piper Navajo pressurized is lower than of the Cessna 421 by some seven or eight thousand dollars, so that the relationships between these two aircraft would be reversed if it was analyzed on an equipped basis.

Exhibit 13 is an analysis of product introductions by the three members, prominent members of Piper, Cessna and Beech and indicates that Cessna has been more active in introducing products into new markets than either Piper or Beech, and the further point can be made that when you are in a market early you tend to get a larger share and maintain

a larger share.

Exhibit 14 presents the unit sales forecast for FAA as of January, 1970, Booz, Allen as of 1970, Piper Aircraft as of February, 1971, and Drexel, Firestone, as of 1971. We have highlighted the Piper forecast, and it can be seen that it is lower than the other three by a substantial amount and did form the basis for the individual model forecasts used in the company's projections through 1973.

The next sheet is merely back-up material for that chart.

Exhibit 15 is a research report prepared by the Research Department of Drexel, Firestone, Inc., dated February 12, 1971. However, the first draft of this report was submitted to the head of the research department on August 4, 1970, and owing to a change in the management of the department, the analysis was not approved until early December, 1970. It was placed, as is indicated in italics on the first page of the report, on the recommended list of December, 1970, and published on February 12, 1971. It was not, therefore, prepared directly or indirectly in any way in connection with these proceedings.

We have highlighted what we regard to be the pertinent sections of this report, which in summary state

1 that a degree of pent-up demand arising from deferred pur-
2 chases has been characteristic of the general aviation
3 industry during periods of past downturn. It predicts a
4 rebound in sales for general aviation, partly owing to the
5 pent-up demand effect, partly owing to an increase in
6 student starts to customary levels, partly owing to a return
7 in scrappage rates to levels that are normally opposed,
8 which is about 3 per cent as opposed to levels that prevail
9 during periods of downturn, which is approximately 1 per
10 cent, and it also analyzes the behavior of pilot retirement
11 rates and how they are correlated to recessions.

12 On the basis of this analysis, the research
13 department has predicted the highest unit forecast of the
14 four we have examined.

15 Exhibit 16 is a graphic presentation of the fore-
16 casts that have been prepared by Booz, Allen & Hamilton --

17 THE COURT: I don't know whether you completed
18 the thought in the words that you had just uttered about
19 the analysis of the research department.

20 Will you read that?

21 (The following was repeated by the reporter.)

22 "On the basis of this analysis, the research
23 department has predicted the highest unit forecast
24 of the four that we have examined."

1 THE COURT: Just explain that in words.

2
3 THE WITNESS: They have predicted a significant
4 rebound for recovery in the rate, unit rate of general
5 aviation sales in 1972, based on an analysis of the effects
6 of a recession upon the deliveries of aircraft. They
7 have identified the deferral of purchases, the reduction
8 in the scrappage rate, the increase in pilot retirement
9 rates and the decrease in student starts.

10 THE COURT: Is that prediction consistent with
11 charts that we have examined so far?

12 THE WITNESS: It is inconsistent with the Piper
13 forecast, in that it is significantly higher.

14 MR. RYAN: I think that would be in Exhibit 14,
15 your Honor --

16 THE COURT: Yes, I know. I just want to have it
17 expressed on the record.

18 MR. RYAN: Excuse me, your Honor.

19 THE COURT: I've got it now. I would like to read
20 it later.

21 MR. RYAN: All right, sir.

22 THE COURT: Did you finish?

23 THE WITNESS: Yes, your Honor.

24 Q Go ahead, please.

25 A Exhibit 16 is a graphic presentation of the forecast

1 by Booz, Allen & Hamilton in June of 1970 and helps to show
2 the degree to which market share data, which includes
3 turbo-jets, will tend to distort the market shares held
4 by models within their respective markets, and it is clear
5 that they are expecting substantial increases through 1975.
6

7 Exhibits 17 and 18 represent part of the basis upon
8 which Booz, Allen established their forecasts: in one case
9 for single-engine, a 9.6 per cent compound annual dollar
10 growth and for twin engines a correlation between corporate
11 expenditures for plant and equipment in dollars, and this
12 is included merely to help explain their rationale.

13 Exhibit 19 is an expansion of their forecast for
14 pressurized turbo-prop up through the heavy turbo-jet
15 and turbo-fan, indicating, as is highlighted, a favorable
16 environment in their view for the pressurized turbo-prop.

17 Exhibit 20 sets forth, in units and in dollars,
18 the sales of Piper products for the years 1969 through
19 1970 and as projected for the years 1971 through 1973,
20 together with a forecast for the total market and the
21 implied Piper market share by model.

22 These figures were prepared by the Market Research
23 Department of Piper and were used by the Finance and Adminis-
24 tration Department for purposes of preparing the projections
25 which we have already examined.

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Exhibit 21 is designed to assist in examining the Piper Marketing Department's forecast for the three years ended 1973 as compared to actual results for the years 1960 through 1970 in terms of market share. We have examined this exhibit with the officers in Piper who prepared the unit and sales forecast by model, and it's our view that the forecasts are not out of line with past results in terms of market share, and we have already considered what we regard as their conservatively forecasting the aggregate in individual market results.

THE COURT: On that point, is there anything that you learned to indicate that Piper will not go along with the projected trend of unit sales by your research department?

THE WITNESS: Our feeling is that through 1973, a period of recovery, they are more likely to achieve these results than --

THE COURT: The results forecast for the industry in general by the research department? Is that what you are saying by "these results," or the ones that they project on Exhibit 14?

THE WITNESS: More likely than those projected by our research department. This is the emphasis upon a cyclical recovery. He is looking at the industry, and

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2 owing to the fact that we believe Piper has sharper cyclical
3 factors prevailing, we think it will come back faster than
4 the industry generally.

5 Q Do you agree with the Piper forecasts or --

6 A This would say that I think the Piper forecasts,
7 I think, are conservative.

8 THE COURT: But there is no factor that you
9 learned of in your investigation which would indicate that
10 the research department's forecast, when applied to Piper,
11 would be a distortion?

12 THE WITNESS: I do not recall any factor that we
13 identified that would lead to that conclusion.

14 THE COURT: All right.

15 Q Continue, please.

16 A Yes.

17 Exhibit 22 is just a portion of the build-up
18 material on the basis of which the financial projections
19 are based. The projections involve an examination of costs
20 and cost trends, direct labor and material, market factors,
21 learning curves, an extreme amount of data in arriving at
22 the final projection.

23 In addition, analyses of the behavior of costs,
24 fixed on one hand, variable on the other, and in some cases
25 a blend of these two factors.

That analysis has led to Exhibit 22, which shows the contribution by model by year for Piper Aircraft Corporation. Direct costs include direct labor, direct material and some portion of indirect factory overhead.

In 1973, the percentage of total contribution provided by medium twins, heavy twins, pressurized twins and turbo-props, the category that has been highlighted in the exhibit, amounts of 62.6 per cent as projected, as compared to 47.9 per cent in 1971 and lower percentages in prior years.

The significance of this is that the product mix of Piper is shifting to higher-priced aircraft, which tend to have a higher contribution to profit as a percentage of sales.

In the case of the turbo-prop, it is projected to be a 49 percent rate of contribution versus an overall rate of contribution from all models of 37.5 per cent.

Exhibit 23 analyzes the ability of Piper to finance the development, the inventory, standing inventory, relating to not only present models but those which are expected to come on stream within this time period.

The bottom line indicates that at the end of the year Piper's borrowings will peak in 1972 at \$6,400,000. Piper's lines are approximately ten to twelve million.

I have talked to the principal bank and the principal officer in that bank on the account to satisfy myself as to the availability of these funds.

THE COURT: At what rate?

THE WITNESS: The prime.

MR. LIMAN: Did he say what bank, your Honor?
I didn't hear it.

THE WITNESS: The Pittsburgh National Bank.

A (Continuing) In addition, Piper's leeways under its note agreement provides for additional borrowing, senior borrowing of approximately nine million, and there is no limitation in that agreement, I do not believe, on the subordinated borrowing.

Piper's ratio of debt to total capital is below that of Cessna and well below that of Beech.

Exhibit 24 is the view of Booz, Allen & Hamilton with respect to sales for Piper in 1975 and has been inserted here so that we can see that 1973 is not necessarily another peak, that there is a further projection.

The total projected sales, including parts, amounts to approximately 192,000,000 to 250,000,000 in the opinion of Booz, Allen in 1975.

Exhibit 2t sets forth the organization of Piper Aircraft Corporation in 1968, and Exhibit 26 sets forth

the organization of the company on a current basis. Obviously, there have been quite a few changes, quite a lot of delegation of responsibility by function.

We noticed one or two other changes, other than organizational changes. There seems to be a high degree of agreement on the marketing strategy to be employed by the company in the future, whereas in the past there was some uncertainty and division on these points. There is a revision in the distributor policy under way, designed to produce less volatility in Piper's earnings and sales as compared to the past.

There is some revision in product development procedures. They have been systemitized to a greater extent. There has been a new view taken of military business to the extent that off-the-shelf sales can be enhanced as opposed to the ordinary type of defense contract.

There has been some accent on protecting the company against periods of future money stringency by entering into agreements with AVCO with respect to the pressurized Navajo and Ford Motor Credit Company, designed to provide for planning and warehousing plans for distributors and dealers.

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A (Continuing) We found the management, and we talked to a large number of people, to be articulate, highly organized, with timely data readily available to them.

And one further point: We found a new interest in technological possibilities and principally involving fiberglass-aluminum composites as a possibility for future development.

Exhibit 27 through Exhibit 30 is statistical and financial data relating to Piper and Beech and Cessna and is provided primarily for my convenience.

Now this is the material that supports the projection of \$6 per share in 1973, together with the price-earnings ratio of 13.6 which we employed.

THE COURT: Gentlemen, we will take a brief recess.

(Recess)

MR. ARNING: Your Honor, before the examination of the witness resumes, I offer in evidence now Defendants' Exhibits AE-1, AE-2 and AE-3, which were marked yesterday.

THE COURT: What do they consist of?

MR. ARNING: These are the agreed findings that First Boston wants to put into the record.

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2 MR. LIMAN: There were some changes that
3 were made and we will look at them --

4 MR. ARNING: No, they were done.

5 MR. LIMAN: Oh, they have been done.

6 The understanding on AE-3 is that it is offered
7 not for the truth of what is asserted or at least it is
8 not admitted for that, but it is being offered without
9 objection by me simply as information that was before
10 First Boston in rendering its opinion on value in this
11 case as set forth in the finding, your Honor, which refers
12 to this.

13 MR. ARNING: That is agreeable.

14 MR. LIMAN: There are some objections on
15 relevance which we will note: 47-C, 77-C and 77-B, for
16 the record.

17 THE COURT: The SEC has no interest in this
18 offer?

19 MR. KUSHNER: No, your Honor, it does not.

20 THE COURT: Received accordingly.

21 (Defendant's Exhibits AE-1 through AE-3
22 for identification received in evidence.)

23 BY MR. RYAN:

24 Q In your opinion, what would be the value of
25 Chris-Craft's approximately 42 per cent interest in

1
2 Piper Aircraft Corporation -- what would it have been
3 if on its exchange offer to Piper shareholders which
4 opened on July 24th and closed on August 4, 1969, Chris-
5 Craft had obtained the 300,000 shares of Piper common
6 stock sought, thereby giving Chris-Craft a majority of
7 the outstanding shares of Piper common stock?

8 A In our judgment the value would be the same,
9 roughly, as the values which we have already supplied.
10 Any difference would be attributable to a so-called
11 control premium, which when analyzed in its separate
12 elements in the circumstances that prevailed here would
13 not seem to be justified or warranted.

14 We have looked at those elements, including the
15 element of financial reporting, the ability to direct
16 the business and policies of Piper, the ability to merge
17 or sell assets, declare dividends, sell stock, contra-
18 seasonal or cyclical effects or any prospects of an
19 enhancement in a PE ratio of the acquirer.

20 Taking the first, that of financial reporting,
21 we asked Price, Waterhouse and Company to prepare an
22 analysis of the historical results of operations of
23 Chris-Craft --

24
25 Q Does that appear in your volume?

A That is in Exhibit 32.

-- the historical results of operations of Chris-Craft and as adjusted to reflect its 42.4 per cent interest in Piper accounted on a cost basis and also on an equity-method basis.

Q Could you tell us what you mean by on a cost basis and on an equity basis?

A Yes.

The cost basis would entail the reporting by Chris-Craft of only the dividends received by reason of its investment in Piper, from Piper, whereas the equity method would deduct dividends and include Chris-Craft's pro rata interest in the net income reported by Piper, as opposed to just dividends.

In addition, Price, Waterhouse examined the results of operations for Chris-Craft on a basis where it had acquired the 300,000 shares of Piper sought in May, June and July of 1969 by Chris-Craft, permitting the consolidation of the results of operations.

That analysis appears as Exhibit 1 in Exhibit 32 under the heading of "Comparative Per-Share Data," and it shows that had Chris-Craft acquired Piper in 1965 and reported its results of operations together with that of Piper on these three bases, that the most favorable

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from a financial reporting basis, for Chris-Craft would have been the equity method, which would have permitted, in view of our advisers, if this recent exposure draft had been implemented at that time.

Q When are you referring to when you say exposure draft?

A I am referring to a draft dated December 18, 1970, distributed by the accounting principals to lawyers, investment bankers and other company officials and other interested parties with a view to soliciting comment on a proposed change in accounting treatment, where in the equity method would be extended from 50 per cent owned per persons, to other situations, principally where an investor company has a position in the investee's stock of 20 per cent or more and where significant influence can be demonstrated.

On that last point, significant influence can be demonstrated by an investor company seeking to use the equity method where the percentage ownership is less than 20 per cent, where it is greater than 20 per cent the investor company has the burden of proof to prove that the equity method is not appropriate.

THE COURT: Are you saying in the matter of financial reporting Chris-Craft would be on a proportion at parity with Bangor Punta?

THE WITNESS: That's correct. Exactly.

A (Continuing) Exhibit 1 indicates that in

each year before extraordinary items Chris-Craft would be better off in terms of its own reporting of its own earnings per share on an equity method with its 42.4 per cent interest in Piper.

As far as the direction of the business is concerned, judgments may have been made with respect to the potential enhancement of value based on Piper's record. Today there is a new management at Piper and such a conclusion could not be, I don't believe, legitimately drawn, owing to the fact that this management doesn't have an extensive track record to criticize.

The question of merging or selling assets was one to which we attached no value. In a cumulative voting situation with extensive director representation and taking into account that the essence of business is the acceptance of risk in return for disproportionate reward, it is our view that in any situation that would be litigious or hostile it would be very difficult to exercise control and to make reasonable business gambles, as would be the case when you were not being constantly second guessed.

We would not consider, then, that absolute control exists in this case and the ability to merge

1 involves, in most instances, barring the exemption
2 from listing on the New York Stock Exchange, its concept
3 of appraisal rights, and we would imagine that on any
4 appraisal our findings would not be inconsistent with the
5 final result, and this would mean a very substantial
6 further investment for Bangor and, as a practical matter,
7 the fair value, we think, would be involved in every
8 instance.
9
10

11 THE COURT: Particularizing, what you
12 would estimate on the basis of your analysis the fair
13 value if a share of stock were to be appraised in a
14 merger proceeding at September 1969?

15 THE WITNESS: We think it would be equal to
16 the value that we have supplied.

17 THE COURT: Would you put the dollar number on
18 the record, please?

19 THE WITNESS: Yes, sir. I think that figure
20 is \$42.10.

21 A In terms of the ability to declare dividends,
22 we would imagine that any director of Piper would be
23 responsive to Piper's requirements as opposed to any
24 other separate interests, and looking at the projections,
25 it would seem likely that dividends could be declared in

1973 and that the directors acting in unison in Piper's interests would arrive at roughly the same conclusion with respect to the declaration of dividends.

As far as seasonality and cyclicity are concerned, we understand that Chris-Craft has witnessed a reduction in its sales of boats in a manner similar to Piper's decline in sales of aircraft, which suggests that they are co-cyclical and not counter-cyclical, and Chris-Craft states in their prospectus that sales of boats occur in the spring and early summer, which is also, to a lesser degree, similar to the set of facts in the case of Piper's sale of products.

So we would not supply a value for counter-seasonal or counter-cyclical factors. As you know, with respect to enhancement of PE ratios, we have gone back and examined Piper's price-earnings ratio and find that it generally has had a relationship of 74.2 per cent of the S&P Industrials, which hardly is a set of facts that would suggest you are going to enhance your multiple by acquiring this particular company.

The most important factor that we took into account, however, is this question of financial reporting, where we see advantages to Chris-Craft in not having control.

MR. RYAN: I have no further questions, your Honor.

CROSS EXAMINATION

BY MR. LIHAN:

Q Mr. Fitzgerald; taking your last point first, where you say the most important factor is the financial reporting, you are aware that this accounting bulletin has not been adopted, are you not?

A I am aware of it.

Q And is it a fact that as of today Chris-Craft cannot report on an equity basis?

A That's correct.

Q And is it a fact that if this accounting bulletin is not adopted, or, if adopted, it is not available to Chris-Craft, that Chris-Craft will be able to report only such dividends as are declared by Piper?

A That is correct.

Q Now taking the year 19⁷3, for example, if Chris-Craft had over 50 per cent of the stock of Piper, it would

1 under the present accounting rules be able to report six
2 dollars per share on your projection for each share of
3 Piper that it owned, am I correct?
4

5 A That's correct.

6 Q And as the accounting rules now exist, it would
7 not be able to report that six dollars a share, am I
8 correct?

9 A Yes, you are.

10 Q In fact, if Piper did not declare a dividend it
11 would be in a position where it would report zero, is
12 that right?

13 A That's correct.

14 Q And Bangor Punta, with over 50 per cent, would
15 report six dollars a share, is that correct?

16 A That's correct.

17 Q And, in fact, when did you say that this change
18 in accounting rules was proposed?

19 A It was proposed on December 18, 1970.

20 Q 1970, not 1969, am I correct?

21 A That's correct.

22 Q After the August date of your valuation?

23 A Yes.

24 Q Now are you aware that there is considerable
25 controversy over this?

3334 A

1
2 A Over the --

3 Q Over the proposed amendment?

4 A There is not any significant controversy over
5 the proposed amendment. That is incorrect.

6 Q Well, where have you obtained that information?

7 A I can read the press release of the APB with
8 respect to the amendment.

9 Q Do you have it here?

10 A Yes, sir.

11 Q Would you produce it?

12 A Would you like me to produce it first?

13 Q Yes. Let me look at it and maybe we can just
14 put it in.

15 A All right. I think the most interesting line
16 is right --

17 Q You have underlined it, so why don't we --
18 Can we take it out of your book?

19 A Certainly.

20 MR. LIMAN: Mark it, please.

21 Q You were going to say the significant line is
22 the one that you put in yellow, it is --

23 THE COURT: Just mark the paper first.

24 MR. LIMAN: Yes.
25

A "However" -- and I am quoting -- "modifications were relatively minor, in view of the substantial support they received from the business and financial community, Mr. Savoie said."

(Defendant Chris-Craft Exhibit 128 for identification received in evidence.)

Q In view of this substantial support, has this been adopted yet?

A The vote is scheduled for approximately ten days from today, and the indications we have received from a member of the Accounting Principles Board is that it will be passed essentially in the form in which it was proposed.

Q Does it have to be discussed with the SEC,
too?

A The SEC has submitted their comment. I have
a copy of it with me. They support --

THE COURT: You say they support?

THE WITNESS: That's the way that I read it,
your Honor.

THE COURT: What is the language that they use in supporting it?

THE WITNESS: They have only this comment in their letter. This is a letter dated March 4, 1971, from the Securities and Exchange Commission to Mr. Richard Little, Administrative Director of Accounting Principles Board.

It is signed "Andrew Barr, chief accountant."

Q Do you want to read what you consider to be pertinent, please?

A Yes.

They note that of the four questions which we previously raised, those relating to the investment method into the acquisition of a 50 per cent-owned company are no longer relevant and do not arise in other proposed opinions now being considered.

The two remaining issues to which the Commission has again addressed itself are the importance of the control element and an appropriate form in the voting interests in an investee for the equity method of accounting by an investor.

Now I have yellow-highlighted:

"The Commission suggested a level of 25 per cent, which is rooted in the Investment Company Act

2 of 1940, where control is presumed at that
3 level."

4 That is one of their points.

5 THE COURT: That would not apply here because we
6 have 42 per cent?

7 THE WITNESS: That's correct, sir.

8 A (Continuing) And then I have another high-
9 light:

10 "The Commission is not persuaded at this time
11 that equity accounting should be extended to less
12 than 50 per cent-owned investments without evidence
13 of control or a significant degree of influence by
14 the investor over the investee."

15 Q Now do you know, Mr. Fitzgerald, of a single
16 discussion in the accounting bulletins or minutes to the
17 effect that where one company has over 50 per cent, that
18 a company with 42 per cent would qualify to take advantage
19 of this?

20 A I do know of such a discussion.

21 Q Please describe it.

22 A We had that very discussion with our accountants,
23 and we explained to them the circumstances of this case,
24 and, as you can see, from the preparation of data, they
25 have been immersed in the documents, and we have covered

with them the minutes that were available to us dealing with Piper Aircraft and the interchange between Chris-Craft and Bangor Punta and the percentage owned by Chris-Craft, and in their judgment the equity method would apply in these circumstances.

Q You say that in the judgment of your accountants -- who are your accountants?

A Price-Waterhouse.

Q Do they express that opinion in writing, that it would apply?

A They gave me authority to quote them on this point.

Q Have you discussed that with the Chris-Craft accountants?

A No, sir.

Q Have you checked the minutes of the meetings of the Accounting Association to see whether that interpretation accords with the discussions that led to this proposed draft?

A You are talking now about the minutes of the Accounting --

Q The Board.

A The Board.

Q The Board.

1
2 A Mr. George Watt of Price, Waterhouse, who has
3 applied this view, is a member of the Board, and I presume
4 that he was fully aware of all the minutes.

5 Q Do you know whether he checked this situation
6 with the Board?

7 A No.

8 Q Do you know how they selected the percentages
9 in the proposed draft?

10 A I know only that this has been a subject of
11 discussion among accountants, going back a number of years,
12 and some of the firms have taken the rigid view that in
13 all cases where 20 per cent is held, the equity method
14 should be used without regard to control or other as-
15 pects.

16 Q And do you know whether or not when that view has
17 been expressed it has been on the assumption that if you
18 have 20 per cent you have working control of a company?

19 A In the Arthur Anderson view, the control is
20 irrelevant.

21 Q Was it irrelevant in the view of the SEC that
22 you just read?

23 A Yes, and in terms of --

24 Q What do you mean, "yes"?

25 A Yes, sir.

THE COURT: Let him finish his answer each time.

Q I am sorry.

A I was going on to say not only in terms of the SEC but also in terms of the exposure draft dated December 18th.

Q That control is irrelevant?

A No, is relevant.

Q That is what I thought you meant.

So that from the SEC's point of view, control is relevant?

A Yes.

Q And are you suggesting that Chris-Craft has working control of Piper with 42 per cent?

A HagHaving --

May I answer that in terms of my own limits in gauging the percentage and the control against what the Board intends?

Q Well, you are not an accountant; am I correct?

A That's my point.

THE COURT: What is the question that Mr. Liman put?

MR. LIMAN: He asked me a question in response.

THE COURT: Which question is being answered?

3341 A

A third question?

Q Well, I take it that you could not answer the question as it was posed to you.

A Well, I can, but I thought not being an accountant I can't answer it completely because I don't have the requisite background.

THE COURT: Answer it to the degree you can and give the qualification of your statement.

THE WITNESS: Could I have the question read back, please?

(Question read.)

A No, sir.

Q This chart that Price, Waterhouse prepared, which is in Exhibit 32, and which shows investment at equity, is all based on an assumption which did not exist for the years shown there, '65 through '70, am I correct?

A That's correct.

Q Now you testified that in Exhibit 15 in your book is a recommendation of your firm on Cessna, am I correct?

A Yes.

Q Is Piper on your recommended list?

A Piper has too thin a share, floating supply to

be of institutional interest at the present time.

Q Is the answer that it is not on your recommended list?

A That's correct.

Q Do you know what Piper is selling at?

A Approximately 21 on the Philadelphia-Baltimore Stock Exchange.

Q So that you place the value today at more than double at what its market price is?

A Yes.

Q On the Philadelphia & Baltimore Exchange?

A That's correct.

Q And you were here when Dr. Bellemore testified, am I correct?

A Yes, sir.

Q And you would agree with him that the trading on Piper, in view of the thin float, is not representative of its value, is that correct?

A That's correct.

Q Now let's turn to your report, Appendix A, where you describe what you do -- what you did.

Now correct me if I misunderstood you.

Do I understand that for determining value as of May 7th you determined a PE ratio and applied

that to Piper's earnings as of its last fiscal year?

A May I just indicate that we were testifying as to market price only and not value, and the rest of your assertion is correct.

Q With that amendment?

A Yes, sir.

Q And when you said you were testifying to market price, you don't mean the price that it was selling at at the New York Stock Exchange on that date?

A We were indicating where we thought the stock would trade on the New York Stock Exchange on that date, in the absence of purchases with a view to obtaining control.

Q And in your view that does not represent value in the way in which you were determining value --

A Yes, sir.

Q -- for the September --

A Yes, sir, that's correct.

Q Well, what is the difference between what market price is and value in your judgment?

In any event, your opinion of what the market price should be and your opinion of what value is.

THE COURT: Read the question.

(Question read.)

MR. LIMAN: Let me strike that.

THE WITNESS: There are two questions.

BY MR. LIMAN:

Q You determined an opinion of market price as of May 7th, and you determined an opinion of value as of September, 1969?

A That's correct.

Q Now what is the difference between an opinion of market price and an opinion of value?

A Market price is a point of disagreement between a purchaser who believes that market price is lower than value and a seller who believes that market price is equal to or higher than value.

It is not more than a seeking for value, and it often is high or low as contrasted with value.

Q Well, in determining a price for May 7th, did you make an effort to determine what a reasonable buyer not under a compulsion to buy would pay a reasonable seller not under a compulsion to sell?

A Yes. If you use the word "reasonable" to mean a person who had access only to the published data available at that time.

Q And in determining price as of September, 1969, did you make an effort to determine what a reasonable

1 buyer not under a compulsion to buy and a reasonable
2 seller not under a compulsion to sell would arrive at in
3 a transaction?
4

5 A Yes, with the further proviso that in each
6 case the buyer and seller would have access to all of
7 the facts which were made available to us in arriving at
8 our value.

9 Q Do I understand that you determined a PE ratio
10 both for May and for your subsequent valuation?

11 A Yes, sir.

12 Q And do I understand that your PE ratio for
13 Piper for May was almost 50 per cent or 40 per cent more
14 than the Standard & Poor's 425 industrials and even a
15 greater percentage than the Cessna PE ratio?

16 A Yes.

17 Q So that as of May you assigned a substantially
18 higher PE ratio to Piper than was the PE ratio than the
19 425 industrials and the Cessna ratio?

20 A Yes.

21 In line with the relationships of those ratios
22 as they existed in the 13-week period prior to December 25,
23 1968.

24 Q Now is there something written in the code that
25 governs financial analysts, that says that you have to

choose a 13-week period?

A No.

Q Now I gather that in determining what the value should be as of September, 1969, and March of 1970, you came to the conclusion that Piper should sell at 72.4 per cent of the Standard & Poor's 425 PE ratio, is that right?

A 74.2 per cent, that's correct.

Q Now in my copy -- would you look at --

A Is there a typo?

Q On page 2 of the appendix, under C, you show .742, and then you say 72.4 per cent.

There is obviously a transposition on mine. Which is it?

A 74.2 is the correct one, I believe.

Q 74.2.

And so that was your conclusion as to what the ratio of Piper's PE should be to the Standard & Poor 425?

A Yes.

Q Do you know what the Standard & Poor PE ratio was in September of 1969?

A I don't believe I do -- I am sorry, I do.

What time period would you like?

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Fitzgerald-cross

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Q September, 1969.

A No, I am mistaken. I thought that I had it.
I don't.

Q I had it at 15.99 and I will show you the
document which it came from.

A Yes.

Q Does that seem reasonable to you?

A It does seem reasonable.

Q And if you applied the 71.2 percentage to the
actual PE ratio of Standard & Poor's in September, you
would come to roughly a ten-to-one PE ratio?

A May I interject here?

I think the higher price earnings ratio that
prevailed in the 13-week period that we are talking about
is partly as a result of the fact that Piper's earnings
were down, and in the history of the trading in the stock,
you can see repetitiously how the price-earnings ratio
goes up when the earnings go down.

Q I am sorry. I didn't communicate myself to
you.

Addressing yourself to September, 1969, the PE
ratio of Standard & Poor's 425 was roughly one sixth to
one.

A Yes.

Q I asked you what results you would get if you took your 74.2 per cent of that.

Roughly 10?

A Yes, sir.

Q Now you in valuing the stock as of September, 1969, used a Standard & Poor's ratio as your base for several years before, is that right?

A That's correct.

Q And you chose not to use the Standard & Poor's ratio for September of 1969?

A If we had used it we would have included the periods in Piper's history when its price-earnings ratio was selling -- was as high as 75.6 times in any such effort.

We would have looked, in other words, at the ratios that would prevail at a time when Piper's earnings were down, which they were. They were down from 1966. And the price-earnings ratio for Piper stock was high throughout the ensuing period.

Q Well, are you saying that in determining a value as of September, 1969, it is more appropriate to use the Standard & Poor's Industrial Index for the years from '63 through '66 and for September, 1969?

A You mean the relationship of Piper's ratio

1
2 to --

3 Q Yes.

4 A I think it would be more appropriate to use
5 the relationship that existed in the years '67, '68
6 and '69 for that, if you are talking about market price.

7 Q Right. You would use that rather than take
8 the Standard & Poor's as of September, 1969?

9 A I wonder if we are talking about the same
10 thing.

11 Could you repeat --

12 Q Let me start: You said that Piper should sell
13 it roughly three quarters of the Standard & Poor's PE.

14 A Not all the time. Not during periods of a
15 decline in Piper's earnings.

16 Q Well --

17 A But in a period of recovered earnings, yes.

18 Q Well --

19 A Which is what --

20 Q Actually what year should it have sold at the
21 three quarters ratio?

22 A In the years from 1963 to 1966, which were
23 years of recovery, sharp recovery, in Piper's earnings.

24 Q And for the subsequent years --

25 A No.

Q It should not?

A That's correct.

Q And your whole basis for constructing this PE ratio is based on an assumption --

A A recovery cycle.

Q Not only of a recovery cycle but the years that should be used for determining the appropriate comparisons should be '63 through '66?

A That's correct.

Q And that '66 through '69 should be disregarded -- or '67 through '69 should be disregarded?

A Yes, owing to the fact that the price-earnings ratio was high in that time period.

Q Now is it also fair to say that when we talk about a Standard & Poor's price-earnings ratio, that means the relationship between the price of the stock to the last reported yearly earnings?

Am I correct?

A Quarterly earnings.

Q Four quarterly earnings?

A Yes.

Q And am I correct that what you did here was:

Having determined what the ratio should be, you applied the ratio not to Piper's 1969 earnings but to

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estimated earnings in 1973?

A That's correct.

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Fitzgerald-cross

3352 A ¹⁵⁶¹

Q It would follow, then, that your valuation depends on this projection for 1973?

A That's correct.

Q And your valuation is as good as that projection is?

A That's correct.

Q And if Piper were to earn in 1973 ten dollars then you are going to be understating the value, and if it were to earn one dollar, then you have overstated that?

A Yes.

Q Who prepared this projection?

A Members of the Piper Aircraft Corporation marketing department prepared the unit forecast for the total market, and by model, the unit forecast, and then based on those projections, the department of finance and administration determined what the earnings and other line item relationships would be in the years projected.

Q When did they prepare these, do you know?

A Yes. They prepared them in February of this year.

Q Were they prepared for your use?

A No. They were prepared -- let me say that they

1
2 were prepared for the use of Tom Gillespie, as well as
3 our use, and they were directed to prepare these by
4 Tom Gillespie before we did.

5 Q Tom Gillespie is a vice president of Piper
6 Aircraft?

7 A Senior vice president, marketing and sales.

8 Q He recently became such?

9 A Yes.

10 Q In fact, you have testified that since Bangor
11 has gotten control of Piper there have been substantial
12 changes in management, is that correct?

13 A Yes.

14 Q Did you say Piper has a conservative record of
15 projecting sales?

16 A I have looked at the projections that were
17 prepared in 1967 and in 1968, which were years when they
18 began projecting and had the practice in August of making
19 five-year projections, and I have compared those with
20 actual results and examined the people who made those
21 projections and the assumptions that were underlying
22 them.

23 More recently I have examined projections that
24 were made in September and alternate projections that
25 were made in connection with so-called disaster plans

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3354 A¹⁵⁶³

shortly after the projections that we have presented were made.

Q Were you told by anybody that Piper had projected for 1970 sales of \$125 million and net income of only \$2 million?

A I am not sure I saw precisely those projections. I went through the 1967 and 1968 projections.

Q Do you know whether Piper had a reputation for missing its projections?

A Yes.

Q It did?

A Yes.

Q These projections are based on back-up charts you have here which show the sales of various planes, am I correct?

A That is correct.

Q Can you tell me whether every one of the planes reflected in these projections for 1973 are in production today?

A They are not all in production.

Q Can you tell me whether they are all at the point where they are being flight-tested today?

A Yes, they are -- by "flight-tested" --

Q I mean there is a prototype that is actually up

1
2 in the air?

3 A For the years through 1973, yes, that is cor-
4 rect.

5 Q Each of the planes that is reflected in the
6 sales projections through 1973 is, according to your
7 understanding, in a prototype model?

8 A Let me just double-check that.

9 Q Would you point out what chart you are relying
10 on?

11 THE COURT: Wait a minute. Just let him
12 check and then you can ask him another question.

13 (Pause)

14 A Sir, on the basis of a quick review, I see two
15 aircraft which are included in the projections for 1973
16 for which no prototype currently exists, but I would like
17 to go on and say that one of them is a stretched version
18 of an existing airplane and, as such, is a fairly routine
19 and perfunctory model change, and the other one, called
20 the Lance, is essentially the Cherokee 140.

21 So these do not represent any technological
22 departures or new models.

23 Q Would you tell me what chart you are referring
24 to?

25 A Yes, I am referring to Exhibit 20.

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Fitzgerald-cross

3356 A 1555

Q Incidentally, do you know what happened to the Pocono when they tried to stretch it?

A I think the Pocono had a number of problems beyond stretching.

It was a new aircraft model, the largest ever manufactured by Piper.

Q On Exhibit 20 you say that one of them is a matter of stretching something in existence.

Is that under the turbo-prop market?

A No, that is the Arrow RS.

Q Would you point that out?

A First page, yes. PA-28-RS.

Q In that case you showed that in 1973 it will be in production for sales for the first time and will have 500 models sold?

A That is correct.

Q What is the other one not in prototype?

A Lance, which is under the same page, under "Light Four-Place Market."

Q And the Lance you show will be in production and sale in 1972 and 1973, and that it will sell 400 planes in each year?

A Yes. I think it may be worth while pointing out that in the case of the stretched Arrow, the 500

replaces 310 units in the prior year of the unstretched version.

Q Please turn to the next page of that exhibit and under the heading "Turboprop Market" -- turboprops are the big planes, aren't they?

A Yes, sir.

Q Are those the planes you were talking about where the profit margins are likely to be the highest?

A Yes, sir.

Q And it is the turboprop that is going to contribute the most towards these projected earnings?

A Yes.

Q Can you tell me whether this turboprop has been certified yet?

A No.

Q Can you tell me what the state of its development is?

A Yes, I can. The prototype has over 300 hours on it. The engineering man-hours estimated for final completion of the program are 204,500, and the amount completed at the present date is 184,200, leaving 20,300, or roughly 10 per cent of the total estimated amount remaining.

Q In development costs?

2 A Yes.

3 Q And after that it has to be certified?

4 A Yes, sir.

5 Q Do I understand that the expectations are that
6 this plane will not reach the market until 1973?

7 A Yes.

8 Q Is it fair to say --

9 A Well, 1972. I am sorry.

10 Q And the expectation is, underlying this chart,
11 that:

12 One, the plane will be certified; and,

13 Two, that Piper will be able to price it com-
14 petitively enough to sell these number of planes?

15 A That's correct.

16 Q And that in turn rests on an assumption of what
17 the total number of units of turboprop planes that will
18 be bought in that year -- that is, then, how that was
19 calculated?

20 A Yes.

21 Q And it is the expectation that Piper will move
22 from having no share of this market through 1971 to
23 having 25 per cent of this particular market in 1973?

24 A Yes, which is --

25 Q That is pretty speculative stuff to base an

2 analysis on, isn't it?

3 A I don't think so. I think that the experience
4 of the Navajo, where 22 per cent of the market share was
5 garnered in the first year and 41 per cent in the second
6 year, is an example of what happens when you introduce
7 a model favorably into a market.

8 We have looked at the performance of the proto-
9 type and the price versus ton-mile trade-off, and it
10 appears to hold advantages over the King Air at a price
11 of some \$400,000.

12 They are currently talking of a price of
13 \$375,000 being feasible in light of predicted costs.

14 Q If I had asked you in January of 1969 what
15 share of the market you expected the Poconos to have,
16 you would have given it some share, wouldn't you?

17 A January of 1969?

18 Q Yes, sir.

19 A Yes, but if I had access to all of the facts,
20 or to the same extent that we have now, I am not so sure
21 I would have.

22 Q You would have reached the conclusion from what
23 you have seen of all the facts that as of January, 1969,
24 this plane could be expected to have no market?

25 A The Poconos?

Q Yes.

A I think the answer to that is potentially yes, owing to the fact that the engine problem was -- a larger engine was the only solution for the airplane and no such engine existed.

At the current time there are a variety of engines that would fit this PA-31T, and in fact they are now going to a -28 version of the PT-6.

There are choices of engines.

Q Are you saying to me that if engines, existing engines of the requisite horsepower were not in your judgment available today, you would not be able to accept these statistics on projection?

A That's correct.

THE COURT: We will take a recess now until 2.15.

(Recess to 2.15 p.m.)

- - -

A F T E R N O O N S E S S I O N

2.15 P.M.

CLIFFORD L. FITZGERALD, resumed.

CROSS EXAMINATION CONTINUED

BY MR. LIMAN:

Q Mr. Fitzgerald, you testified earlier on this AICPA guideline, which is dated in its release in March, 1971. Are you aware that as early as 1969 there were proposals to this effect by the AICPA?

A There were research bulletins. I'm not aware of any Accounting Principles Board proposal.

Q Now, turning to Chart No. 20, or Exhibit 20, and to page 3 of it, where it shows total units, I see that you show that Piper in 1968 sold 4,476 units; am I correct?

A That's indicated, yes.

Q And how much did Piper earn in that year? I will help you: \$2.36; is that correct?

A Yes. I think that is correct.

Q And in 1969 it sold, according to your chart, 4,065 units; am I correct?

A Yes.

Q And its earnings were slightly under \$3 a share; am I correct?

A Yes.

Q And am I correct that therefore, in arriving at your valuation, you assumed that in 1973, on sales of a lesser number of units, Piper would earn double its 1969 earnings?

A Yes. A lesser number of units but a significantly higher dollar volume.

Q Is that because it was moving into this -- or by 1973 it will be in a market for higher-priced planes?

A Principally.

Q And that is a basic assumption of your analysis here?

A That's correct.

Q Now, in your Exhibit 2, you only reflect Piper's forecasts on sales, but I think you testified that you were provided with figures on what costs would be and so forth. Am I correct?

A In the work papers, among the items I was shown those documents were included.

Q And who prepared all of that information?

A John Leeson.

Q And who is he?

A John Leeson is the treasurer of Piper Aircraft Corporation.

Q The treasurer of Piper?

1 A Yes.

2 Q Now, do you know what assumptions he was using in
3 making these computations as to expense?

4 A Yes. He assumed a -- he categorized items of
5 expense as variable or fixed or a blend of the two. He did
6 not provide for any escalation in the levels of expense;
7 neither did he provide for any increase in selling price.
8 These figures are in terms of 1971 dollars.

9 Q And he assumes what the cost would be of making
10 particular planes?

11 A Yes.

12 Q And he assumes what the cost of research and
13 development would be?

14 A Yes.

15 Q And I assume that there were also hypotheses as
16 to how you wrote off research and development, whether you
17 capitalized it or expensed it; am I correct?

18 A Yes. That is correct.

19 Q Now, is it true that the amount of income which
20 Piper would reflect in a particular year depends to some
21 extent on judgmental decisions as to whether to capitalize
22 or writeoff research and development?

23 A If that was the case, I think there would be a
24 qualification in the accounting certificate, if it was any

1
2 material change. My understanding is that the company has
3 and continues to writeoff engineering and development
4 expense as incurred, capitalizing only tooling.
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Q Is it your understanding -- I see you are confirming it with somebody --

A No, I am not talking loud enough.

Q Do you know -- to whom these people to whom you got these estimates from report -- to whom they report?

A Yes. John Leeson reports to John Pool.

Q And Mr. Pool reports to Mr. Mergen?

A That is correct.

Q And did you in your examination of Piper discover that Mr. Mergen reports to somebody at Bangor Punta?

A Yes.

Q To whom?

A I am not aware precisely.

Q If at the time of an appraisal these estimates were revised downward, your figures would be lower?

A Yes, they would.

Q Did anybody tell you these forecasts were ever submitted to the board of directors of Piper?

A They were not submitted to the board of directors of Piper; they were submitted to Charles Pool, Tom Gillespie and Joe Mergen for their scrutiny and we

discussed the forecasts with each of those gentlemen, or directly with Joe Mergen to ascertain whether they approved of these forecasts, which they did.

Q Were you told they were submitted to Bangor Punta too?

A No, I am not aware that they were.

Q Are you aware that they were not?

A I am not aware they were not.

Q Who retains you to testify in this case?

A Bangor Punta.

Q Did you ever testify in an appraisal proceeding?

A No.

Q Could you explain to me in simple terms what the difference is between market value, which is the May 7 figure I understand you arrived at, and value, which is the September and March figures you arrived at?

A We could re-read my answer, if you like.

Q I didn't understand it, that's why.

MR. RYAN: I understood it, Judge.

THE COURT: Well, let him repeat it. I think the terms were simple enough for me to understand, but

repeat it.

MR. ARNING: I think Mr. Liman changed the terminology to a different meaning, market price or market value, your Honor --

MR. LIMAN: I will inquire.

Q When you used the word market price, did you mean market value?

A Yes.

Q And when you used the term value as of September and March, did you mean market value?

A No.

Q What do you mean?

A Value, what the security is worth, taking into account all of the relevant facts and prospects and projected earnings.

Q Does it mean what it is worth to somebody who can remain in the company until 1973?

A It is what it is worth to somebody who has access to those facts.

Q And who would be prepared to rely on those facts?

A Yes.

Q In your business as an investment banker do

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you get involved in determinations of the price at which
to market a security?

A Yes.

Q Is this a regular part of your business?

A Yes, it is.

Q Would you say that most of your experience
in arriving at valuations has arisen from your duties as
an underwriter of securities?

A Yes.

Q Do I understand your testimony to be that
you would be prepared to underwrite the Chris-Craft
position as of March 9, 1971 at a price of \$51.92 a
share?

THE COURT: How can he state what you under-
stand? You mean is it his testimony?

Q Is that your testimony?

A No, that is not our testimony.

Q Would you underwrite that position of Chris-
Craft at \$51.92 a share?

MR. RYAN: Objection, your Honor. Completely
irrelevant.

THE COURT: Well, would a reasonable under-
writer based on the assumptions that are involved herein,

which apparently haven't yet been assailed by anybody, be willing in your opinion to underwrite at this \$51 figure per share?

THE WITNESS: We would not be willing to underwrite at 51, whatever the fraction is. We would be willing based on an exposition of all of the facts we have had access to to place that block with a third party.

Q At that price?

A At that price.

Q Do you know of a third party?

A No. A specific third party?

Q That's right.

A No.

Q When you say you would be willing to place it with a third party, are you telling me that you would be prepared to recommend to a third party a purchase of Piper -- of Chris-Craft's position in Piper at that price?

A That's correct.

MR. LIMAN: Your Honor stated that these assumptions haven't been challenged --

THE COURT: Except by the cross-examination.

A No, they are not.

A Yes. I think that would be normal under the circumstances.

A No, other than the verbal representation which we have received from numerous parties.

A No.

A No. I think they are confidential.

Q Who told you they were confidential?

A Projections are always, invariably confidential.

Q Are they always kept from the board of directors?

MR. RYAN: What was that question?

THE COURT: He wants to know whether they are

always kept from the board of directors.

MR. RYAN: Objection, your Honor.

THE COURT: Sustained.

Q Is it the practice in your experience to present projections to the board of directors of a company?

A Yes.

Q You gave some testimony with respect to why in your opinion there was no premium for control in your judgment in this matter?

A Yes.

Q You mentioned that in describing the basis for your opinion that there have been changes in the character of Piper, am I correct?

A No. I think I identified certain changes in management structure and changes in receptivity to certain ideas.

Q Is it your hypothesis that the maximum in efficiency has been achieved at Piper so that a person obtaining control would not see fit to make other changes?

A I think it is impossible to make that evaluation on the basis of the facts that this management has been installed for such a short period of time.

Q Why did you cite as a factor in your opinion

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company.

Q Do you know what role these people had then?

A No.

Q Weren't they in the marketing department then?

A I don't know the answer to that question.

Q You also cited the fact that there has been a change in the distribution policy?

A That's correct.

Q Certain choices were made?

A I think what I said is that the company is in the process of amending its distribution policy.

Q Do you know whether this is under the guidance of Bangor Punta?

A I would have to assume that.

Q In fact haven't you determined that the direction and character of this corporation has changed since 1969 when Bangor Punta obtained control?

A I think my statement suggests that it is too early to make any determination of that type. I do see and have gained impressions with respect to changes, but it is a period of some two or three months since Mr. Mergen was installed as president.

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3 Q Does your valuation depend on the capability
4 of the management of Piper to live up to the expectations
5 reflected herein?

6 A Yes.
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Q And are you saying that in recommending this to a purchaser you would not take a discount for their inexperience at Piper?

A Oh, I certainly would not. May I just say that Mr. Mergen is new at Piper but he is not new in the field of aeronautical engineering, aeronautical production, and the like.

Q Well, Mr. Mergen was with AVCO-Lycoming, wasn't he?

A Yes.

Q And AVCO-Lycoming was the engine manufacturer for Piper?

A That is correct.

Q You testified that marketprice in May should have been this figure of \$55 a share?

A Yes, sir.

Q And you are aware that Bangor Punta and Chris-Craft both paid more than that in their quest for control of this company?

A Yes, sir.

Q When you say there is no value to control, is it your testimony that these companies made a misjudgment in paying to try to obtain it?

A I would have to say that it depends on the facts they had available in forming their judgment.

Q What facts would make it advantageous to a company to pay to obtain control, in your judgment as an investment banker?

A Expectations of increasing earnings in the future.

Q And based on your review of Piper's history, is it your opinion that there was a good deal of potential in 1969 for making changes in Piper and improving the efficiency and earnings of Piper?

A I have to say that we have looked at the company as it exists in February, 1971, we have talked to the members of management in great detail, but we did not talk to members of management in 1969 or any earlier period when they were not under the pressures of a tender offer and, accordingly, distracted. So I can't make any judgment about management in 1969.

Q If a buyer felt that he could improve the profits of Piper today by taking charge of management, would a premium for control be justified?

A Yes, it would be, if you had that belief.

Q So that your opinion that there is no premium for control rests on a judgment that there is no reasonable expectation of improving Piper's earnings through a change in management?

A That's correct.

Q Until the new management has been tested?

A Yes.

Q As you sit here on this witness stand as an investment banker, can you tell me whether in your opinion a reasonable buyer would be willing today to pay as much per share for Chris-Craft's 42 per cent of Piper as for Bangor Punta's 51 per cent?

A That is our testimony and that is what I am saying here sitting in this witness box.

Q When you say this you are mindful of the fact that the owner of ⁵¹~~45~~ per cent of Piper can compel a merger subject to rights of appraisal?

A Yes.

Q And is it fair to say that your opinion that a third party would be willing to pay as much for the minority as for the majority is based on your judgment that an appraisal of the stock would arrive at the value of \$51.92?

A I can't speak for the courts that would review that matter.

THE COURT: Use the word "should" instead of "would."

A Should, yes.

Q And that in turn is based on your assumptions with respect to Piper's earnings down the road?

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2 A Yes.

3 MR. LIMAN: No further questions.

4 MR. PENNOYER: No questions.

5 REDIRECT EXAMINATION

6 BY MR. RYAN:

7 Q Do you recall, Mr. Fitzgerald, that Mr. Liman asked
8 you to assume that the Standard & Poor's price-earnings
9 multiple in September of 1969 was 15.99? Do you recall?

10 A Yes, I do.

11 Q And do you recall that he asked you to tell him
12 what the price-earnings multiple would be if you multiplied
13 15.99 times 74.2 per cent, which is the relationship between
14 Piper and Standard & Poor's price-earnings in the 1963 to
15 1966 period? Do you recall that?

16 A Yes, I do.

17 Q Do you recall that he suggested it was 10 times?

18 A Yes, sir.

19 Q And what is the multiple?

20 A It is 11.85.

21 MR. LIMAN: I am sorry, I did not mean to mislead
22 you.

23 MR. RYAN: I have no further questions

24 THE COURT: Anybody else on this phase?

25 MR. PENNOYER: No questions, your Honor.

MR. ARNING: No questions.

THE COURT: Mr. Fitzgerald, do you have any reserve about the acceptance of any of the projections on which you based your opinions?

THE WITNESS: No, sir.

THE COURT: Did you test sufficiently in your opinion to satisfy yourself that the projections and estimates you relied upon were fair and reasonable?

THE WITNESS: Yes.

THE COURT: Is Item 4 of the opinion going to be raised?

MR. RYAN: Yes, there is another witness, your Honor.

RECROSS EXAMINATION:

BY MR. LIMAN:

Q How did you test cost figures?

A Cost figures are in terms of 1971 dollars and we looked at the cost figures by model, by year, for the last four years, direct labor, material, learning curve factors.

Q How did you test the figures for the planes that are not yet in production, what it would cost to bring them to production?

A The engineering cost estimates.

2 How did you test where the estimates were reasonable

to bring it to completion?

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A We are not, among other things, aeronautical engineers and we couldn't test anything other than the responsiveness of the people in engineering and finance administration, which questions included yours.

Q Isn't it a fact that you have accepted in these figures the judgment of the people at Piper?

A To a great extent.

MR. LIMAN: That is all.

THE COURT: Thank you very much.

(Witness excused.)

MR. RYAN: Mr. Siff, please.

A L A N I. S I F F, called as a witness on behalf of the defendant Bangor Punta Corporation, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. RYAN:

Q Mr. Siff, by whom are you presently employed?

A Draxel, Firestone.

Q In what capacity?

A I am a vice-president and I am responsible for researching the surface transportation area.

Q Mr. Siff, could you relate to us your educational background?

* * *

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* * *

DOUGLAS L. BELLEMORE, called
as a witness on behalf of Chris-Craft Industries,
being first duly sworn, testified as follows:

MR. LIMAN: Please mark this 111 for
identification.

(Plaintiff's Exhibit 111 was marked for
identification.)

DIRECT EXAMINATION

BY MR. LIMAN:

Q Dr. Bellemore, would you state your occupation?

A I have two occupations. I am professor at
the graduate school of business administration at
New York University, where I teach advanced security
analysis and portfolio management. I also have for
many years operated as a profitable financial analyst.

Q State your educational degrees, please.

A I received a bachelor of science in business
administration and a master of business administration
from the College of Business, Boston University, in 1932

and 1933, and I received the Ph. D. degree, economics and finance, at New York University, Graduate School of Business, 1937.

Q How long have you been a professor of finance at NYU?

A Since 1956, 15 years.

Q Prior to that, what did you do?

A I was chairman of the department of finance and economics at Boston University from 1946 to 1956.

Q All told, how long have you been teaching in the field of security analysis?

A Since 1936.

Q Do you do other lecturing?

A Yes. In addition, I have lectured to member firms of the New York Stock Exchange on security analysis and valuation and each year I lecture for three days to trust officers of the American Bankers Association at the National Trust School, Chicago Northwestern, and I lecture each summer, I have for the past 12 years, to officers of savings and loan associations on investments.

Q Have you published any works on the subject of securities analysis?

A Yes, I have published several. My major text was first published in 1953, Investments Principles, Practices and Analysis, and the last revision was in 1969.

Q Where is that text used?

A This text is used in quite a number of universities. It also has been required reading on the New York Stock Exchange reading list. It is the basis for the Midwest Stock Exchange course on security analysis. It has been used by the American Bankers Association in their trust courses. I prepared a manual for that which they give all over the United States.

Q Have you done other writings in the field?

A Yes. I have published a number of other books, five in all, and quite a number of journal articles, Journal of Finance, Analysts Journal, and other professional publications.

Q Are you currently connected with any investment advisory service?

A Yes. I am one of the directors and economist for John Blewer, Inc., investment adviser.

Q Have you previously had professional experience as an investment analyst and, if so, with what firms?

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1 A I was director of research for three years for
2 Tucker & Anthony, and R.L. Day, member of the New York Stock
3 Exchange, and I have acted as a financial consultant in
4 addition.
5

6 Q Are you a member of any professional societies?

7 A Yes, the New York Society of Financial Analysts.

8 Q Have you ever testified before as an expert in
9 the field of security analysis, giving your opinion on values
10 of securities of companies?

11 A Yes, in quite a number of cases, I suppose about
12 five or six a year, and I think seven this year, or in the
13 last 12 months.

14 Q Would you state the names of some of the cases in
15 which you testified?

16 A I acted as financial expert in the American Express
17 case. I testified in the Texas Gulf Sulphur case, for Texas
18 Gulf Sulphur Corporation. I testified in the Newmark-
19 RKO General case. I just finished testifying in a case
20 against Universal Pictures Corporation, and another case
21 recently against Sivkovsky Electronaton. I am doing a post-
22 trial brief on a case for Brunswick Corporation.

23 Q Have you testified in appraisal proceedings on
24 dissenters' rights and mergers?

25 A Yes, in a number of those cases.

MR. LEVAM: I submit the witness is qualified.

If there is any voir dire on the qualifications, your Honor, would it be reserved for cross?

MR. RYAN: I have no questions, your Honor.

MR. PENNOYER: I have none at this time, your Honor.

Q Dr. Bellemore, were you asked to perform an assignment in this case by our office?

A Yes, sir.

Q Will you state what the assignment was?

A The assignment was to determine --

THE COURT: Was your engagement in writing, setting forth the assignment?

THE WITNESS: No, sir. May I proceed?

THE COURT: Please.

A My assignment was to value the block of Piper Aircraft stock held by Chris-Craft Corporation as of the date that Banger Puma obtained majority control of the stock.

THE COURT: Did you render a written report?

THE WITNESS: I have tables, sir, and one of them is Table 10(b), and Table 10(b)(1), which was the report of the valuation, which shows the valuation of the stock and the cost to Chris-Craft less that valuation.

THE COURT: I am just trying to anticipate. I

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wondered whether you had rendered a written report.

THE WITNESS: No, sir, just tables.

THE COURT: All right.

Q Dr. Bellemore, in expressing this opinion were you asked to express the opinion as of a particular time?

A Yes, as of September, August, 1969, when Bangor Punta, I was told, obtained majority control.

Q You were asked to assume that they had obtained majority control?

A Yes, sir.

Q Were you also asked to make other assumptions in making this valuation?

A Yes. I was also told to assume that if Bangor Punta under the State laws that it operated under in this case, obtained over 50 per cent of control could force a merger of Piper Aircraft into Bangor Punta. I was also asked to assume ---

Q Were you told to assume there would be a right of appraisal?

A Yes, sir.

Q Were there other assumptions you were given?

A I was told to assume that the Pocono project had been aborted.

Q Based on those assumptions, did you arrive at a

conclusion with respect to the value of Chris-Craft's stock in September of 1969, when Bangor Punta acquired majority control of Piper?

A Yes, sir.

THE COURT: Please read that back to Mr. Liman.

(Question read.)

MR. LIMAN: Thank you, your Honor.

Q When I said Chris-Craft's stock, I meant Chris-Craft's holdings of Piper stock.

A Yes, sir.

Q Would you state to the Court what value you have arrived at?

A Yes, sir. The value is shown on Table P-10(b) and P-10(b) (1). The value per share, in my judgment, of the stock held by Chris-Craft was \$7.50 at the time that Bangor Punta obtained the majority control. The total value of the Chris-Craft holdings of 697,495 shares was \$5,231,213.

Q Were you also asked to perform another assignment?

A Yes, sir. I was asked to make a judgment of the value of the controlling majority holdings of per share value, majority holding of Bangor Punta.

Q I will first ask you to explain to the Court how you arrived at the figure that you gave for the minority and then I am going to take you through and ask you to express

your opinion on the majority, and explain to the Court how you arrived at it.

THE COURT: Please do the majority first.

MR. LIMAN: What is your conclusion with respect to the value of 50.1 per cent?

THE WITNESS: Approximately \$73 per share.

MR. RYAN: Excuse me, Mr. Liman.

Your Honor, at this time I would appreciate it if Dr. Bellemore would point out in his exhibit, which was furnished to your Honor and which was furnished to us the other day, where his opinion is as to the value of Bangor Punta's Piper shares, so that I can have an opportunity to look at it before I cross-examine.

THE WITNESS: It does not appear there. May I add something? I have the figures on which I calculated them with me, but it doesn't appear in any exhibit.

Q Would you explain to the Court, Dr. Bellemore, the methodology you used in your evaluation process?

A Yes. I follow the procedure that I always do consistently as a professional financial analyst in investment work and which is in all the testimony that I have ever given in court --

THE COURT: Can you suspend for just a moment?

(Discussion off the record.)

2 Q Describe your methodology, Doctor, generally,
3 and then I want you to go into the specifics of how you
4 arrived at these figures.

5 A I first, as I always do, made an in-depth study
6 of the industry, going back a good many years, actually all
7 the way back to 1927 and 1930, when the three major so-
8 called Big Three were first incorporated, but I paid
9 especial attention to the period from 1959 through 1969.
10 I wanted to determine the economic characteristics of this
11 industry, the growth factors in the industry, the com-
12 position of the products, the segmentation of the profits
13 in the industry, and what we always look for are trends,
14 both in the actual growth rate of the revenues and of the
15 earnings. We try to determine any cyclical characteristics
16 that exist in the industry and the extent of these cyclical
17 characteristics and any trends in the type of products --
18 in this case type of aircraft being produced -- any trends
19 in this respect.

20 The purpose, of course, is that the value of a
21 stock is basically the earning power that that stock has,
22 what it is going to earn, and so in looking at the industry
23 and the conditions existing at the time and making the
24 evaluation, I make a judgment as to the future of the
25 industry, look at it, say, five or six years in terms of

growth trends, characteristics and types of product.

Q Dr. Bellemore, the statistics and information on which you relied on industry trends are set forth in your tables that begin with A, A-1, et cetera?

A That's correct.

Q Now, apart from looking at the industry, what did you do?

A I then -- and these are shown in my tables and charts by P for Piper.

I then looked in-depth at the long-term records of Piper Aircraft over many years, a twenty-year period, but I paid particular attention to the 1960's and determined whether any major changes occurred in the industry in Piper during this particular period or if it had continued the same type of policies. I wanted to relate the Piper record to the industry and also clearly, as my analysis showed, the industry leader, in this case Cessna, and to look at the composition of the product and the output, in this case the types of planes, and I looked over this 10-year period annually, each of the planes that they produced, and I have tables showing a breakdown.

I looked at the situation as of 1969, and then I made projections as to what I thought the sales and earnings of Piper Aircraft would be, looking ahead the next five or

2 six years.

3 Q And having made projections of what the earnings
4 would be, what did you do?

5 A I then -- I then was coming to the point of valua-
6 tion. My table 10(b) shows these earnings projections.

7 I then determined at this point of time the Dow-
8 Jones for example was selling at about 13.9. I looked at the
9 record of Piper versus Dow-Jones and Standard & Poor's
10 424 Industries, which is the usual comparison in terms of
11 the earning records, particularly the past five years, and
12 the dividend records, and then I determined the P/E, which
13 I applied to the 1971 earnings estimate, and came out with
14 a value of \$7.50.

15 I also went further ahead to 1976, assumed what
16 the earnings would be then, multiplied them by 10 and came
17 out ultimately with \$12.30, and discounted to the present
18 value in '69, if the stock sold at that price, at that point
19 of time, and came out with a figure of about \$7.62, reasonably
20 close to my \$7.50 which I had obtained the other way.

21 Q Now, Dr. Bellemore, before turning to the tables,
22 can you tell the Court whether your assumption that Bangor
23 Punta had the power to compel a merger, subject to appraisal
24 rights, affected your judgment in any way, and, if so, how?

25 A It affected it to a very great extent, because --

1 in this situation, the minority, in this case Chris-Craft,
2 holding 42 per cent, and this would apply to other stock-
3 holders. The remaining part of the minority group could be
4 forced at any time at the choosing of Bangor Punta into a
5 merger. They of course would be entitled to an appraisal
6 if they rejected the merger offer.
7

8 I was aware in my analysis, this has been rather
9 a cyclical industry. We were clearly starting a cycle at
10 this point. The Dow-Jones had already declined 17 or 18
11 per cent, which was half of the decline that was to occur,
12 and I have never known a case of corporate profits going
13 down where the indexes did not indicate this, and therefore
14 I was aware that Bangor Punta could choose the time at which
15 there would be a merger and would obviously want to obtain
16 the stock as cheaply as possible.

17 Q Now, would you turn to your first ^table, which the
18 Court has, and describe briefly hat it represents and what
19 way you relied on it and how it affected your conclusions.
20 I will ask you to state, so that defense counsel can follow
21 you, and the Court, what the number of the table is in the
22 chart. Is that table A-1?

23 A Yes, sir.

24 In this case I had determined that there were the
25 so-called Big Three in general aviation which rather con-

1
2 sistently have accounted for about 83 to 90 per cent of all
3 the units produced in the industry: Cessna, Beech and
4 Piper. It is interesting, however, as I will point out
5 here, that in terms of billings, which is more important
6 actually than units, the Big Three had declined in this period
7 of the sixties, until by 1969 they only have about 61 per
8 cent of the billings. But as far as units are concerned,
9 this is the Big Three. They are the major companies.

10 In the annual reports of Piper, they consistently
11 refer to units, their percentage of units and sales under
12 \$200,000. This, of course, is not the general aircraft
13 industry but an arbitrary selection. There it makes it
14 look a little better for Piper by taking \$200,000. It
15 would even look better, however, if they only took 100,000
16 units, because they don't have any plane selling above the
17 \$116,000-price class, but I wanted to look at the total
18 corporate sales of these three companies and of Piper.
19 It shows there that Cessna is, by and large, and consistently
20 it is the leader in the field in every respect.
21
22
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2 If you take Cessna's sales as equal to 100 per
3 cent, Beech revenues are about 66 per cent in 1969, and
4 Cessna's about 38 per cent of that 1969 period.

5 Q Now is there anything else that you want to point
6 out about that chart which is of importance other than
7 what you have stated?

8 Otherwise I would like you to move on to your
9 next charts.

10 A I would like to state one other thing:

11 In the middle of the chart it shows general
12 aviation sales, the Big Three, 39.4, 60.1 and 92.5.

13 It is clear that for Piper, .93 per cent of its
14 revenues, come from the sale of general aviation aircraft
15 against 60 per cent for the other two.

16 Q Now charts A-2 and A-3 are statistical computa-
17 tions.

18 Where did you get the information from? Do you
19 recall?

20 A May I refer to A-1A first?

21 Q I am sorry. A-1A. Yes, sir.

22 A A-1A looks, as you should, in my judgment,
23 at the general aviation industry in total.

24 Now I might point out that these statistics,
25 while most of them come from annual reports, in most

pj-2

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cases I wanted to look at calendar years, and these reports came from reports which I received monthly. The last one which I received was March 10th of this year, from the General Aviation Manufacturers Association, which consists of 90 per cent of the companies operating in this industry.

It is the most complete set of facts on the general aviation industry and includes not only the Big Three but all other industries, at least those accounting for 90 per cent of the industry.

The most important point here is, as mentioned earlier, that it is true that the Big Three accounted -- way back in 1960 -- accounted for 92 per cent of all units, and in '66 it was 88 per cent, and in '69 about 88 per cent, so fairly consistently do the Big Three account for that proportion of the units.

However, obviously in terms, the revenues that they receive are much more important.

Many analysts in this particular industry don't pay too much attention to the units because, of course, revenues are the gross figures from which they earn their net income.

I think it is quite significant that at the beginning of the period the Big Three ^{accounted} ~~accountant~~ for 90

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3 per cent of all industry billings, but in 1966 it had
4 declined to 66 per cent and in 1969 to only 61 per cent.

5 Q Is there an explanation for this difference
6 between the percentage of units and the percentage of
7 billings?

8 A Yes. The business aircraft end of general
9 aviation, particularly larger planes and particularly jets,
10 was the area of the greatest growth, and it did attract
11 competition into the industry by companies like Grumman,
12 Lockheed and the others which are indicated here, and so
13 they had come in and were taking a larger proportion of
14 the billings.

15 It is interesting -- not the units -- which
16 indicates that they were going for the larger planes,
17 because the Big Three still had about the same percentage
18 of units.

19 Q I would like you to move along, Dr. Bellemore,
20 to --

21 A Could I mention just one more point?

22 It does show that as of 1969 Piper was accounting
23 for only 17 per cent of the billings of this industry.

24 Q All right.

25 A-2 and A-3 are statistical computations showing

what?

A I wanted to take a long-term look from 1950 and 1959 to 1969, briefly, at the sales and units of the Big Three.

Q Is it true that these tables relate to the facts which you have testified to now?

A That's correct.

Q Now would you look at table A-4, and I ask you whether table A-4 contains information that is beyond what is set forth in the other tables, to which you gave some weight?

A Yes, sir.

Q And would you tell the Court what it says?

A These tables on units shipped, and at the bottom of the table, industry market segmentation. I point out first --

Q Is that in millions?

A Yes, sir.

Q And that is in billings, am I correct?

A The total -- that's all in millions, sir.

Q All right, sir.

So that where it says, "Owner-flown single engine to place \$8000 to \$14,000 class 1," and it shows 1969, that means \$49 in that class in that --

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A That means \$44 million.

Q \$44 million, right.

A Yes.

Q Now would you describe to the Court your conclusions from the statistical information that you set forth herein?

A The most important point here on analysis is that single-engine planes, which accounted for 46 per cent in 1966 and a larger percentage earlier, in dollar volume, accounted for only 34 per cent in 1969.

The so-called light twin engines -- those are in the 50,000 to 100,000 class, and I believe I pointed out earlier that the highest price plane that Piper has is the pressurized Navajo, about \$216,000.

Essentially it is in this class.

These accounted for 26 per cent of the billings in '66, but in 1969 only 17 per cent.

So while 72 per cent of the billings in '66 were \$100,000 --

THE COURT: I just couldn't follow your last figures. Where are you reading from?

THE WITNESS: I am taking -- (indicating).

THE COURT: All right.

Q Would you mark for the Court the percentages --

THE COURT: I have it now. I just couldn't find the --

THE WITNESS: I am sorry. Excuse me.

THE COURT: All right.

A (Continuing) -- and under, only 17 per cent were in that group in 1969.

I am wondering if I am a little off. Had I mentioned the 72 per cent?

Q No.

A Sorry.

Q Why don't you give your percentages?

A Yes. In 1966 the group under 100,000 represented 72 per cent of all billings but in '69 only 51 per cent.

Q And it is in this market that the Piper line exists under 100,000?

A Yes. All the planes are in the 116,000, I believe, 500 for the Navajo. They of course had hoped to move it into the 200,000 class with the Pocono, but that was aborted.

Q Now just to make sure that it is clear that you are saying that in 1966, 72 per cent of all the billings were in the under-\$100,000 class, and in 1969, that percentage had shrunk to 51 per cent?

A Right, yes, sir.

Q And the balance, therefore, was in what you called the 100,000 to 480,000 class.

A Yes.

MR. RYAN: Excuse me, your Honor.

When you say 72 per cent, is that the total billings you are referring to?

THE WITNESS: In all cases I am referring to the percentage of the total billings.

MR. RYAN: Thank you.

And in dollar figures?

THE WITNESS: Yes.

Could I say one more thing?

In other words, the 46 per cent plus the 26 per cent.

Would you like me to explain that a little more?

MR. LIMAN: He will have his turn.

THE WITNESS: All right.

Q What significance, if any, did you attach to this change in the market figures?

A Clearly this shows, as did other information that I saw, that the growth in the industry, and in my judgment the continuing growth, was to larger, heavier and more expensive planes, which I assume is why Piper tried to move into the \$200,000 bracket with the Pocono.

Q Your next chart or table, as you call it, is A-5-A, am I correct?

A Yes, sir.

Q And just tell the Court what the purpose was of breaking down these sales figures on a monthly basis and yearly.

A Well, in analyzing an industry and a company, I may be safe with valuing a stock with only interim earnings, not exactly at the end of a fiscal period, and not knowing them.

So I tried to examine if there is any particular seasonal factor in here.

It is clear that July and August and to some extent November and December tend to be lower months in this unit production.

Q And is the same true of chart A-6-A?

A Yes, sir.

Q Now that was to determine whether there were seasonal swings that might affect a judgment here?

A Yes, and I was particularly, of course, looking at '69, before we had all the figures for '69, and I wanted to make a judgment on earnings at that time, because we only had partial figures.

Q Now would you turn to chart A-7, which is your concluding chart on the industry, and I would like you to point out to the Court on that chart the facts to which you attached significance, explain what the chart is and how it affected your judgment.

A This particular case I --

MR. LIMAN: Do you have that, your Honor?

THE COURT: Yes, I have it.

A (Continuing) I wanted to take a very long look, and I took -- at the financial record of the Big Three, because these are Piper's major competitors.

As I pointed out, Piper operates largely in the 100,000 plane group and has always stressed the small, single-engine plane.

But even here Cessna for the previous four or five years had become the leader even in that area.

So I looked at 20 years, but I stressed the last ten, and right through my study of the industry and the companies it was clear that we had major changes from the mid-1960's on.

To be specific, the industry made its peak in units in 1966.

Actually, Piper in 1967 -- the industry had something over 15,000 units, and the number of units was declining -- even though the actual dollar billings were rising.

So we had these major changes beginning at that point.

I also wanted to look at any of these items, so I took Piper, Cessna and Beech and in the first case of their sales there, the total sales, and it shows that Piper rose from about \$81 million in '68 and a slight drop in '67 to '69, and you can say that basically the record of Piper was good in terms of gross sales to Cessna and Beech.

In other words, that was a satisfactory record.

However, when we look at the percentage of operating income to sales, we see a serious problem because in the mid-'60's this operating profit to sales was running about 18 per cent to 19. It dropped substantially in '67 and then went horizontal and never recovered in those three years, and of course became a heavy deficit in 1970.

Q Now B stands for Beech.

You say 25 there. Would you explain whether there are any factors that you considered in connection with that figure?

A Yes. Beech had a long strike. I forget just how long.

Q In 1969?

A Yes.

As I pointed out earlier, while Cessna has been consistently the leader in this industry, I always want to know how the company I am comparing would be to the leader, like you would compare it to General Motors in the field.

In net income after taxes, of course, it shows up again -- these are in million dollars.

In mid-'60, like in '65, Piper had a 6.87 million net income after taxes.

Then we noticed the next year it dropped to 2.99. That was the so-called mini-recession. That is, economists don't legally define it as a recession. It was extremely mild. But there was a very drastic decline in Piper's net income and of course Piper's net income never recovered to that level in the three years before it went into the drastic '70 decline.

Q And with respect to Cessna?

A I would like to point out one other thing again. Recessionwise, in the first quarter of '60 to the first quarter of '61 was the recession, and you can see again the cyclical factor for Piper over the two other.

Its net earnings declined from 3.52 million to only 850 thousand.

Now in the case of Cessna, it did reach a peak in the percentage of operating income to sales back there, but it kept a pretty good margin and the big thing is that its income in 1969, net income, was 15 million against only 11 million in 1965, or almost a 50 -- 40 per cent-some increase.

The next column is net income as a percentage of sales, of total sales, what is finally brought down to net for the stockholders there, and here again the percentage, which was running 8 to 9 per cent, not only declined sharply in the very slight recession to 3.4 per cent, but never recovered.

Even in '69 it was only 4.5.

THE COURT: How do you explain to yourself the 40 per cent drop in Cessna's income between '69 and '70?

THE WITNESS: I am sorry, your Honor --

THE COURT: Read the question.

(Court's question read.)

THE WITNESS: This industry, and I have a chart to show, is very cyclical, and beginning in '69 we had a recession, which I indicated first had been indicated by a 36 per cent decline.

It was very drastic. In fact, Piper's unit sales in calendar '70 declined only 1.675 units in that, and the whole industry suffered, but in this period of '70 Piper relatively suffered more and even brought the industry figures down from, say -- I would have to check the figures here. I have them later on -- 38 per cent, while Piper may have had a 51 per cent decline.

The industry is cyclical, and that was --

Is that satisfactory, your Honor?

THE COURT: Well, if it is cyclical then why are you comparing '65 and '70?

THE WITNESS: I am essentially comparing '65 with '69. My valuation was of '69 there, and I actually estimated by valuation, but you have to look ahead at these cycles.

I had to estimate in '65 they actually came out with a loss of 47 cents, but essentially I have some '70 figures in here.

That was the reason for the '70 decline.

Q Go ahead, Dr. Bellemore.

A Again, in -- the net income per share for Cessna reached a peak in 1965 and '66 of 3.82 and 4.23. That was the highest on record.

But it not only declined drastically in '67 but even in '69, even though their sales had gone up from 80 million to 107, because of the shrinking profit margins, and consistently through this three-year period, for example, in 1968 they earned \$2.36.

They had earned that much in 1960 at \$2.33, so they were only back to the 1960 level then.

Then in 1969 they got a little higher, but only about 70 per cent of 1965 earnings.

As far as dividends are concerned, they paid \$1.50 in 1966 and then \$1.40 for the next three years, so actually their dividends in 1969 were 93 per cent of what they were in '65, while Cessna's dividends and Beech's dividends went up consistently, so that in '69 Cessna's dividends were 22 per cent above what they were in '66, and Beech's dividends were 63 per cent.

Q Do I read your charts correctly as showing that in 1961 Piper paid out more in dividends than it earned per share?

A Yes, sir.

Q Now having looked at those statistics and made that analysis, did you then look at Piper?

A I have a large chart --

Q That is a large blow-up of the chart that is chart A-1?

A Yes, sir.

Q The Court has that in its book.

Would it be easier to show this, to refer or show this by referring to the chart?

A This is a duplicate of the chart marked A-1.

Q Explain what the various lines are to the extent it is not perfectly clear.

MR. RYAN: Excuse me. Mine does not seem to be marked.

Are we talking about the same thing?

Just explain which half you are covering first, Dr. Bellemore.

A First -- hold it just slightly there.

The bottom chart shows industry units produced by the industry and also industry billings.

As I indicated earlier, you did have this increase up to a total peak in 1966 of \$15,000-plus, and that was the peak in units, and then a decline to '69, of course, a

drastic decline afterwards.

On the other hand, you have billings, if you go all the way back here to 1955 -- you had billings in what I would put a trend channel of 7 and a half per cent a year compounded there, and this channel --

Q The trend channel?

A This channel would be here.

Q The trend channel is on this blow-up in blank, am I correct?

A No, the channel would be here. In other words, between the top and the bottom --

Q -- is the channel?

A -- we have a line to show the trend, and as a matter of fact I project that this trend is going to continue at around 7 and a half per cent.

It also, however, shows the cyclical nature of this industry, which I mentioned earlier.

The first decline there: We had a recession in '57 - '8 -- from mid-'57 and '8, and we had a drop in billings.

We also had a minor recess from the first quarter of '60 to the first quarter of '61, and that shows up here.

And then we had in '66 and '7 what was called a

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mini recession -- economists don't designate it because gross national product didn't go down for three quarters, but it was a slowdown in business, and that shows up, up here.

So we do have this cyclical factor.

An important thing, though, is that billings have this long trend eventhough the units picked up here showing the progress to larger, more expensive planes.

THE COURT: Is that any more than just inflation?

THE WITNESS: Yes, sir. It is quite a bit more there because the actual power of the planes, the size of the planes, the passenger load -- it is all together. There is an inflation factor in there but it is also other factors.

Q Now the second half, the top half of the chart, Dr. Bellemore --

A This shows the billings of Piper for '69, and the units, and it is a very similar picture to the industry, actually quite similar, showing the same cyclical fluctuations and actually a good growth trend.

However, when you come to earnings per share, you see that in effect earnings per share were in a relatively

1 narrow channel through here.

2 They moved up to a peak with the industry peak
3 in units of 423, but because of shrinking profit margins,
4 for example in 1968, there they were coming back from this
5 decline, but they still went -- the earnings in '68 were
6 approximately within a few cents of what they were way
7 back in 1960.

8 Then they did go up to 292, but that's only --
9 yes, only 60 per cent of these earnings.

10 So while on the other hand Cessna's earnings
11 kept going on and their dividends were going up in this
12 period after '65, because of the shrinking margins, their
13 earnings were only about 69 per cent.

14 And then, of course, apparently, I think, you
15 could foresee what happened in '70.

16 Q When you said "their earnings," you were referring
17 to Piper's?

18 A Piper's earnings, yes, sir.

19 Q Now did you in your table P-1 break down --
20 is that your next one -- did you break down in table
21 P-1 the sales of Piper by the models?

22 MR. LIMAN: Does your Honor have P-1?

23 MR. RYAN: The chart?

THE WITNESS: No, the table. I didn't bother with that one. It shows the same thing.

MR. LIMAN: Does the Court have it?

THE COURT: Yes.

BY MR. LIMAN:

Q Table P-1 sets forth what and for what purpose? What significance did you attach to it?

A I wanted to take a long-term look at the actual units produced by Piper in this period there. These are Piper reports, but I checked them also against the industry figures, which come out about the 10th of the month following for each month, showing every type of plane of every manufacturer.

It is clear up to 1959 they had only -- I am sorry -- up to 1960 they only had single-engine planes.

Then they began to try to move into this upper bracket, actually up around above the 30,000 bracket, and they brought out the Twin Aztec, which they have modified, and so forth, which they have continued to bring out.

Then you go from that point: The next plane that they brought out into this type of market, which was a growing market, was in 1963 -- they first brought out the Twin Comanche.

In 1964, however, they reached the next year -- they were just starting to produce it in '63, but in '64 they reached their peak in units of that particular plane, and we can see that they have not sold nearly half --

For example, in '69 they only sold about 50 per cent of the Twin Comanches, even though that was a goodyear, as they head back in '64.

The next step into this market was the Navajo, which came out in 1967, and from all I have read it is a good plane and a good competitor.

So they have moved in this period, certainly rather slowly, and actually with problems in the Twin Comanche, up to the 100,000 bracket with these units -- models.

Then, of course, they did in their '67 and '68 annual reports and even in the industry figures for prices, they gave a great build-up to the Pocono as moving above the 100,000 class, where we are having the substantial growth.

Q Now I take it that the charts that follow are the price charts, that is, chart P, showing prices of the Piper models?

A Yes. And P-2 -- I have the actual prices. These

are approximately -- I had some price lists, but again the industry also publishes price lists, so I wouldn't say they are exact to the dollar, but assume they are approximate.

And what it shows first -- the single-engine planes up to about 30,000, and Cessna is the big competitor.

Beech doesn't compete too seriously in this area. It goes where it is more profitable -- in the middle engine group.

And here we have, as I indicated, the Twin Comanche, the Aztec, the Navajo planes up to 116.

Then, below that, it says that they don't have anything.

They had intended entering the Pocono, while Beech, of course, has quite a number of planes in the price class, for example, 160,000 to 200,000, and also has three planes in the 400,000 to 500,000 class.

Cessna has two in the above 110,000 class and also has another plane, which is supposed to come out in September, to be shipped in September of this year, Citation, about a \$640,000 plane.

Q And table P-2-A sets forth the percentages of

units sold by the three companies by these classes of
dollarplanes, am I correct?

A Yes.

Q And table P-2-B-1 and P-3 and P-4 are further
breakdowns on price tables of planes and models of planes
by the various companies, am I correct?

A Yes, sir.

Q I would like you to turn your attention to table P5, which are earnings figures, sales figures, and would you explain that to the Court, describe the significance you attached to it, what conclusions you reached?

A Among other things, when I am valuing a security I like to look at the information available to financial analysts, like the annual reports and the interim statements, and one of the first places they turn initially is the Standard & Poors standard listing stock reports. The last one I believe on Piper, at least the last one I could obtain, in valuing this stock, was May 20, 1969. Once the stock is delisted, of course, they don't issue them anyway.

This shows the record of Piper but, in addition, inserted in here are the earnings of the Dow Jones and actually the earnings of Standard & Poors 425 industrials closely parallel that record.

Again looking at 1966, we see that the Dow Jones earned about 57, '68, and earned slightly more in 1969 against the fact that Piper only had about 69 per cent of the '66 earnings, 292 being about 69 per cent of the 423.

This Standard listing stock report also shows the price earnings ratios at which that stock sold, and it is interesting to see in this period from '67, 8 and 9, that the price earnings ratio of Piper did move up.

When you look at the earnings record and the dividend record of Piper versus Standard & Poors 425 of the Dow Industrials for Cessna, it obviously couldn't have moved up on an earnings basis. In the 1960s, particularly the latter part, it was the biggest merger movement we ever had in our history, the big area of the conglomerates, and they were extremely popular on Wall Street and candidates for mergers tended to reflect this factor rather than the earnings figure factor, which of course is for the subsequent decline of the most of the conglomerate stock which has been disastrous because they were not based on earnings but on mergers and acquisitions.

Q If you look at 1967, for example, you show Piper's high on its price-earnings ratio was 31 compared to the Dow Jones of 17.57

A Yes.

Q And its low was 32.2 compared to 14.67

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3 A Right.

4 Q From '66 through '69 Piper sold above the
5 Dow Jones ratio both on the high side and on its low side?

6 A Yes, sir. The reason I have '69 the same,
7 I am assuming as of the summer and not of the year '69
8 for those figures.

9 Q You said, do I understand you, that your
10 opinion is that this is the result of the merger movement,
11 these higher ratios for Piper than for the Dow Jones?

12 A Yes. The tendency is if the stock is to sell
13 in relation to their registration, and as to Standard &
14 Poors, but you get fads and fashions in stocks and these
15 conglomerate mergers was a fad in this period.

16 THE COURT: Is the confidence and assurance
17 of the public in the management of a company a factor
18 in price earnings ratio?

19 THE WITNESS: Very much so, yes, sir.

20 THE COURT: Does that indicate that during
21 those three years the public was evaluating the Piper
22 management and its competence on a much higher level than
23 the average run of the Dow Jones securities?

24 THE WITNESS: Absolutely not, and if I can ex-
25 plain why, all management --

2
3 THE COURT: Well, the figures would indicate
4 it?

5 THE WITNESS: Well, sir, the only thing
6 that management --

7 THE COURT: Am I right about that? Do I
8 read the figures correctly?

9 THE WITNESS: No, sir.

10 THE COURT: Well, haven't you shown that
11 during those particular three years the Dow Jones
12 averages had price earnings ratios of around 17 times
13 at their high?

14 THE WITNESS: I believe I can explain it --

15 THE COURT: First let's get the basics.
16 Do you show that?

17 THE WITNESS: That's right.

18 THE COURT: Do you show that Piper had a
19 price earnings ratio of 31?

20 THE WITNESS: That's right.

21 THE COURT: One of the explanations that you
22 gave is that Piper was a conglomerate and this was in a
23 merger period?

24 MR. LIMAN: He didn't say Piper was a
25 conglomerate, your Honor.

THE WITNESS: No, sir, Bangor Punta. I

said it was a period, and I didn't say Bangor Punta. --

I said it was a period in which we had the largest merger movement in our history and any stock that would be a candidate for merger might sell with little relation to earnings.

This is why they collapsed afterwards much more than the other stock. The only thing management can do for a company is give earnings and dividends. When we say management is important, we say IBM is the top management because it produces the top earnings. There is nothing more management can do for a company than give earnings and dividends and this company compared to the Dow, Cessna, was neither giving the earnings or dividend record and you have to assume it was something outside --

THE COURT: What was the price-earnings ratio of Cessna during this period?

THE WITNESS: Well, as a matter of fact, I looked at it but I wouldn't want to comment without the figures.

Q Do you have those figures available to you?

A No --

THE COURT: You are making a solid comparison of Cessna and Piper all the way through. Why did you not put down the price earnings ratios?

THE WITNESS: I just didn't think it was important because when I looked at this -- in other words, I looked at the earnings record and I am sure it was lower --

THE COURT: Lower than what?

THE WITNESS: Lower than Piper, but I just don't want to comment on it without having the figures.

THE COURT: How do you explain the fact that you show all of these plus factors in favor of Cessna and wind up with a lower price-earnings ratio?

THE WITNESS: I believe my judgment, sir, as a professional analyst is that we had a fad, just like at one time we had in bowling stocks -- we had a fad in conglomerate stocks and these conglomerates, of course, went to peak prices in '67 and '68 and then came down to about 10 per cent of what they were and are still down in most cases and investors won't have anything to do with them.

In each period of bull market we have fads,

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and so forth, and Piper was a particular candidate in this period because the earnings certainly don't justify it and as far as the management is concerned, their policy, as stated pretty strongly, was that business would learn not to go in for expensive jets and high priced jets, that the only valuation of the industry was to have lower-cost planes and to stay in that area and they only moved begrudgingly in and they got squeezed on the profit margin.

On no basis could the PE's represent a feeling of management --

THE COURT: What was the price-earnings ratio of the third company?

MR. LIMAN: Beech, your Honor?

THE COURT: Beech, during this period?

THE WITNESS: I don't have the price-earnings ratio. I could calculate them later today.

THE COURT: How did the price-earnings ratio of Beech compare with the Dow?

THE WITNESS: I couldn't say that without checking the figure.

THE COURT: How did Cessna's price-earnings compare with the Dow Jones?

THE WITNESS: I can get them, if you want
want to wait --

THE COURT: I just want to know whether
you have those things available.

Q You have them available, I take it?

A Yes.

Q And you can make the computation at the
recess?

A Well, I actually have the Standard & Poors
yellow sheets for Beech and Cessna and it will show
the price.

Q You have that right here?

A Yes, sir.

THE COURT: Why don't you just look at
them and see what they are?

THE WITNESS: Yes, sir.

MR. RYAN: Your Honor, could I have the
reporter read back a portion of the last answer of
Dr. Bellemore where he was discussing some information he
received -- I am not sure whether he said from Piper
Management or something about getting into jets and not
getting into jets?

THE COURT: Yes. The reporter will do

that while Dr. Bellemore is looking for this --

A That was from the 1960 annual report. I can give you that also, if you want it.

THE COURT: Let the reporter read it back, you find it in the report and look up the price-earnings ratio.

(Record read.)

THE WITNESS: I have the Cessna one.

THE COURT: Let's take that and then you will find the other one at another time.

THE WITNESS: This is Cessna Aircraft, dated February 12, 1969. It shows the P -- obviously it wouldn't show it for '69 at that point, but it shows for 1968, 17-11, for '67, 16-12, for '66, 14-7, '65, 15-9, '64, 14-10.

Q Those are price-earnings ratios from Standard & Poors?

A Yes, sir.

MR. LIMAN: Let's mark it for identification.

MR. ARNING: I don't want to interrupt, but are we clear these are calculated on the same basis as those with which you are comparing them? It depends on which earnings compared to which price.

THE WITNESS: The ones in the book were from Standard & Poors listed stock reports, that's correct.

Q In other words, you are using the same ratio-- you are giving the Court the same PE ratio for Cessna as the ratio set forth in your chart? You are not comparing apples and oranges, as Mr. Arning wanted to know?

A No.

THE COURT: It is not the same ones, but it is the same basis.

MR. LIMAN: That's right.

Q Do you understand the question?

A Yes, sir.

Q Is it computed on the same basis?

A Yes, sir.

MR. LIMAN: Mark it for identification.

(Plaintiff's Exhibit 112 was marked for identification.)

Q Dr. Bellemore --

THE COURT: As a matter of fact, I think I would like to have the remaining figures, if you have the figures, from '63 down to '59 so as to complete the comparison.

Q Would you read them into the record, please?

THE COURT: You left off with 1964. Now, give me 1963.

THE WITNESS: Just to doublecheck it, '64 was 14-10?

THE COURT: Yes.

THE WITNESS: In '63 it was 16-13, and then in '61, 25-11. I might note that is the year the price-earnings ration for the market reached their peak and Standard & Poor's and Dow-Jones were 25 in December, 1961, the highest they have ever been at that point.

THE COURT: Did you skip '62?

THE WITNESS: If I may go back again: '64 was 14-10, '63 16-13; '62 25-11; '61 29-20; '60 is 18-12, and '59 is 14 -- it looks like 6. I believe it is 6.

Q Dr. Bellemore, will you turn to the next table to which you wish to draw the Court's attention?

A I believe the next table should be P-10 --

Q P-10B?

A Yes, sir.

Q Is P-10B the computations you made to arrive at your conclusion as to the value of the Chris-Craft block?

A Yes, sir.

Q On the assumptions stated?

2 A Yes, sir.

3 Q I would like you to explain to the Court what you
4 did, how you did it, why you did it and how you came out
5 where you did.

6 A Well, in the first place, of course, I had re-
7 viewed the situation up until 1969 and I had seen the
8 cyclical nature of this industry, particularly the cyclical
9 factor as far as Piper was concerned, and the very mild
10 1967 recession, the very sharp decline in earnings in 1967
11 from 4423 to \$1.80 -- excuse me, \$1.83. I also had seen
12 what happened since 1966 in the profit management and also
13 in the segmentation of their business.

14 I had seen that the hope as far as the Pocono was
15 concerned to move up into that area had been aborted.

16 I therefore felt in their competitive situation
17 that they would have a rather slow recovery, which could
18 be made in about five or six years, get back to that level
19 that they had in '69. Essentially, if you had changes in
20 management there and if they moved more successfully into
21 these larger and more expensive vehicles and that they get
22 control of their cost -- I estimated actually as of 1969,
23 in September there, that they would earn about 65 cents the
24 following year, in a recession year. Actually, they lost
25 47 cents.

I assumed that they could have a growth in sales

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from a base in 1970, if there were changes in management, and this of course means many development costs and it takes time to move into other planes, as we have seen in their experience, several years to do it, and they could have a 750 gross in sales and they would recover in the five or six years to about their 1969 level. I made three estimates of earnings from the base in 1970 of '65, growing at 7-1/2 a year, 11.2 or 15 per cent a year, and I think in some ways this is optimistic.

I saw some of the company figures where they wouldn't do any better, according to their estimate, in sales, it would be absolutely flat there for the next year and that they would only have earnings if they had major cost reductions.

I took the year 1971 as a basis and figured you could apply a ten price-earnings ratio to this company, taking their maximum gross rate of \$7.50, which I put as the value of the stock. I also assumed that if they had their earnings -- their earnings did grow at this ^{median} ~~median~~ rate of 11 per cent a year, you would get up to \$1.23, which the P/E in 1976 would be \$12.30, and that would be the present value in 1969 -- the present value of that in 1969 would be \$7.62, which is reasonably close to the \$7.50 that I had placed on the value of the stock.

Q You testified that you have come to a conclusion as to what the value of a 50 per cent plus one share would have been at the same time. Would you restate your figure and explain to the Court how you arrive at that?

A Yes, sir. I have just a few figures here. In my judgment, with a 50 per cent plus majority control, this gave the ability to buy the remaining 49 per cent of its earnings power value of the \$7.50 per share which, in my judgment, would be an appraisal hearing valuation.

Actually, Bangor Punta's cost of 832,760 shares was \$67,332,002. I was given this figure by counsel.

Q From an annual report of Bangor Punta?

A That's right. If I assume then they paid that, if they could purchase the balance of the shares outstanding, the total of the balance outstanding, at \$7.50 a share, that cost would be approximately \$6,888,000. May I back up --

Q Sure.

A The value of the block again would be their cost plus, and I then added if they felt, as I thought they would, that they could acquire this at \$6,888,000, that they would figure that I would agree that what they paid for the stock and also what Chris-Craft paid was a fair value for obtaining control, because if they then obtained the remaining stock at 750 a share, their total cost, for Bangor Punta, would

be 74,000,000 or about \$45.20 a share.

(Pause.)

A (Continuing) Therefore, I conclude that the value of the controlling block per share was \$73 per share, or, essentially, the cost of what the average cost paid by Bangor Punta and Chris-Craft would work out at \$73 a share and that they would be willing to participate by getting a vehicle to participate in this industry having the type of growth I considered by paying for the control, this price on the judgment that their total cost would work out at about \$45 a share, and I would think they would think that was overall a reasonable figure for a hundred per cent control of the stock in terms of what the price of the stock had been, say, in December, and so forth.

Q Did you consider other factors in arriving at your conclusion with respect to what the value of 50. --

THE COURT: Let me understand that. You say when you do this arithmetic of adding up Bangor Punta's cost and your constructed figure of \$7.50 a share for Chris-Craft's block --

THE WITNESS: No, I am sorry, I didn't say for Chris-Craft; I said for the total remaining stock, which is slightly more.

THE COURT: All right, Chris-Craft, plus the

total remaining stock -- you get a figure of \$45.20 a share as the total cost of all of the stock on that constructive basis?

THE WITNESS: Yes, sir.

THE COURT: How do you move from there to \$73?

THE WITNESS: Oh, no. The \$73, I added up the cost to Bangor Punta and the cost to Chris-Craft and divided it by the number of shares they acquired and it comes out at \$73 a share.

THE COURT: When I asked you initially, when you were startint to give your expert opinion, at what figure you valued the Piper stock when held by a majority interest, you said that the value of Bangor Punta's majority interest stock was \$73 a share?

THE WITNESS: Yes, sir.

THE COURT: Is that your present statement, too?

THE WITNESS: Yes, sir.

THE COURT: How do you get from \$45.20 to \$73, unless what you are saying to me is that you put a sizable price-earnings multiple on something?

THE WITNESS: I am saying in my judgment the value of control which enabled them to not only have the 50 per cent but to get the 100 per cent there at a time when they wished to buy it, such as in a recession like this --

1 that the value of control -- they were competing with
2 Chris-Craft, and so forth, and I would assume, in the
3 considered judgment of these companies, they paid what
4 they had to get control knowing that if they got control
5 they could acquire the other stock cheaper and, therefore,
6 be worth paying \$73 a share, which was the average cost,
7 if their total cost would only run around \$45 a share.
8

9 THE COURT: What you are really saying is the
10 value of the control is about \$28 a share?

11 THE WITNESS: No, I am not --

12 BY MR. LIMAN:

13 Q \$28 a share more than the average cost of all
14 shares? That is the Court's question.

15 A Yes.

16 THE COURT: What was the stock selling for at
17 the time you valued the control at that price?

18 THE WITNESS: As of August and September?

19 THE COURT: Yes.

20 THE WITNESS: Well, of course, there was no market
21 for the stock. It got up to \$80 and then down around \$70 --
22 I could look it up.

23 THE COURT: What were willing purchasers paying
24 to willing sellers?

25 MR. LIMAN: After Bangor Punta obtained control?

2 THE COURT: No. 1 am talking about in January,
3 1969.

4 THE WITNESS: I have all the figures here and I
5 would rather look at them before. Well, in January the range
6 was -- the December, 1968, range was 51 to 55 -- I am leaving
7 out the fractions. In December, 1968, the range was 51 to
8 55. This was when the Dow-Jones, of course, made its peak.
9 Then the range in January was 50-7/8 to 66-1/4, and in
10 February, 59-3/8 to 71-3/4. I do have the original sources --

11 MR. LIMAH: They are in evidence in this case, your
12 Honor.

13 Q Would you place this value on a 50 per cent plus
14 one share if under the laws of the State and under the
15 assumptions under which you are operating the holder of such
16 stock did not have the power to compel a merger subject to
17 rights of appraisal?

18 A No, sir.

19 THE COURT: Are you saying to me that if some
20 corporate act triggers a right of appraisal today or as of
21 the time you were valuing this stock and a stockholder comes
22 in and asks the Court to appraise for him the fair value of a
23 share, that all he would get was \$7507?

24 MR. LIMAH: As of the date you were using --

25 THE WITNESS: It is my judgment that this is exactly

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the way I would do it and I would come out with the \$7.50.

THE COURT: Are you through with your direct?

MR. LINAN: I have no further questions.

MR. RYAN: May I have a few moments, your Honor?

THE COURT: Yes. Off the record.

(Discussion off the record.)

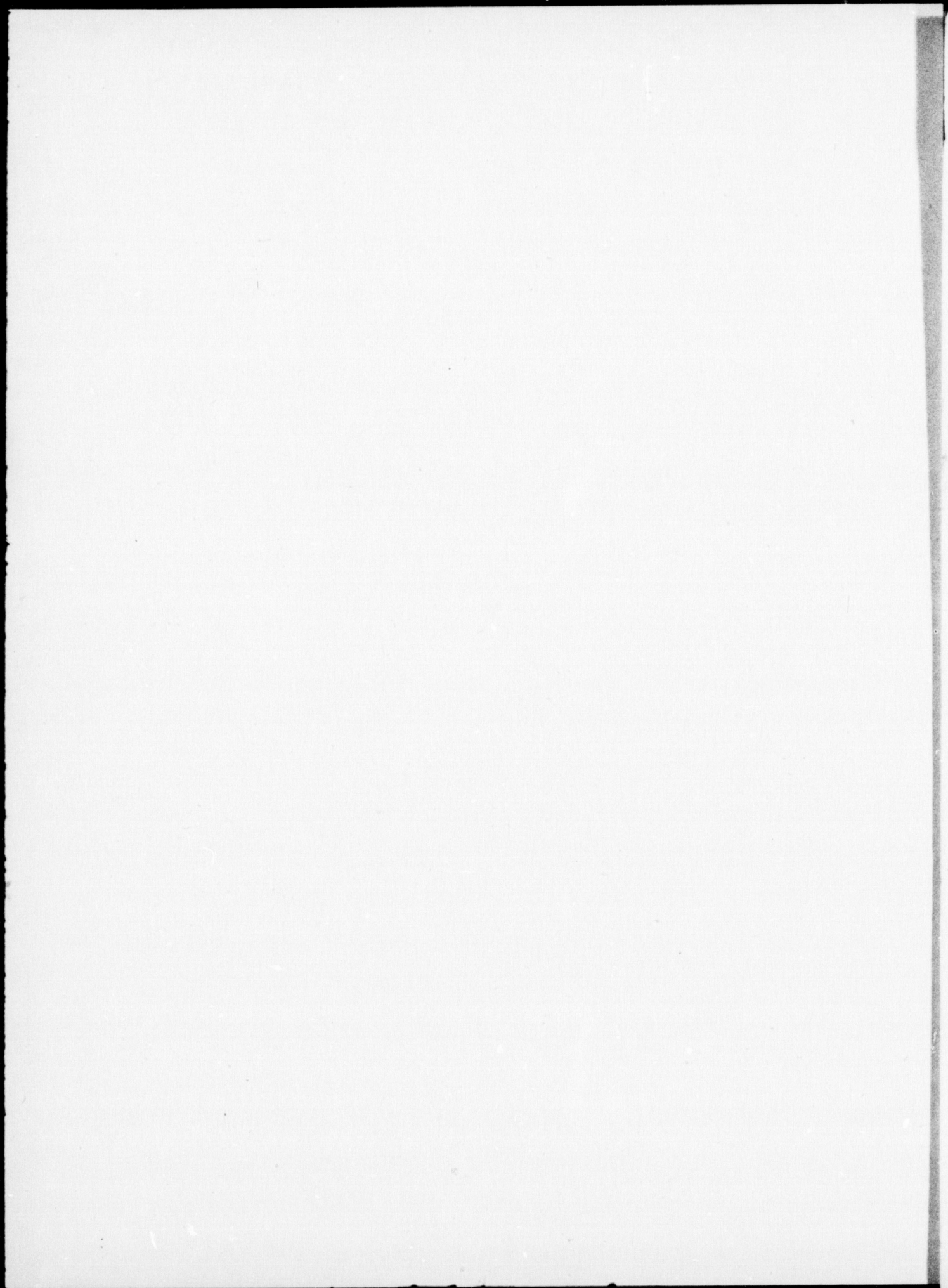
THE COURT: We will recess now until 2.00 p.m.

(Discussion recess to 2.00 p.m.)

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